

CITY OF BOSTON.

DIGEST

OF

STATUTES AND ORDINANCES

RELATING TO

THE PUBLIC HEALTH.

1873.

New Edition.



BOSTON:

ROCKWELL AND CHURCHILL, CITY PRINTERS,

122 WASHINGTON STREET.

1873.

ORGANIZATION OF BOARD OF HEALTH.

BOARD OF HEALTH.

Office, City Hall (first floor).

ALONZO W. BOARDMAN, *Chairman*, 101 Charles street.

[Appointed January 13, 1873, to hold office until May 1, 1876. Salary, \$4,000 per annum.]

SAMUEL H. DURGIN, M. D., Evans House.

[Appointed January 13, 1873, to hold office until May 1, 1875. Salary, \$4,000 per annum.]

ALBERT T. WHITING, 69 Worcester street.

[Appointed January 13, 1873, to hold office until May 1, 1874. Salary, \$4,000 per annum.]

CLERK OF THE BOARD OF HEALTH.

CHARLES E. DAVIS, JR., 538 Sixth Street.

[Appointed by the board of health. Salary, \$2,200 per annum.]

SUPERINTENDENT OF HEALTH.

GEORGE W. FORRISTALL, 67 Allen street.

[Salary, \$3,300. Appointed by the board of health, with the approval of the mayor.]

CITY PHYSICIAN.

SAMUEL A. GREEN, M. D., Office, Chardon street.

[Appointed by the board of health, with the approval of the mayor. Salary, \$3,000.]

PORT PHYSICIAN.

C. IRVING FISHER, M. D., resident at Deer Island.

[Appointed by the board of health, with the approval of the mayor.]

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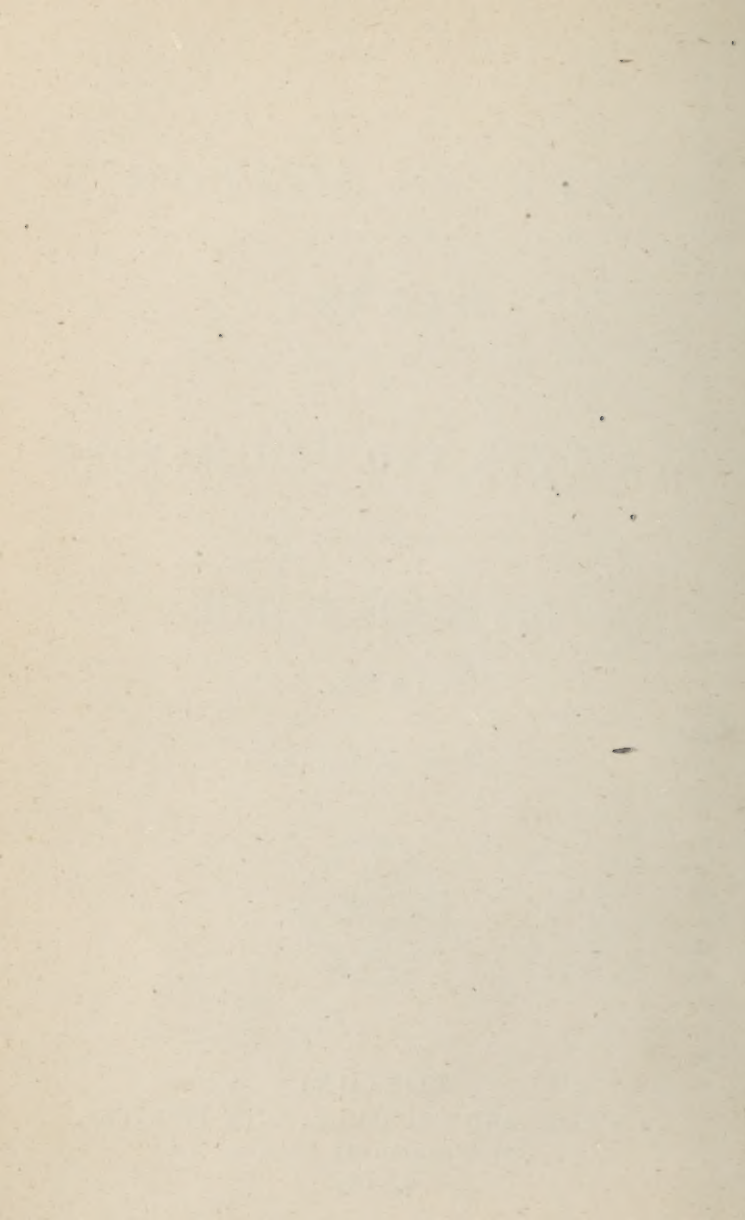


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STATUTES

RELATING TO THE

PUBLIC HEALTH.

BOARD OF HEALTH.

1. All the power and authority now by law vested in the city council, or in the board of mayor and aldermen, relative to the public health and the quarantine of vessels, shall continue to be vested in the city council, to be carried into execution by the appointment of one or more health commissioners; or in such other manner as the health, cleanliness, comfort and order of the city may, in their judgment, require, subject to such alterations as the legislature may from time to time adopt. The powers and duties above named may be exercised and carried into effect by the city council in any manner which they may prescribe, or through the agency of any persons to whom they may delegate the same, notwithstanding a personal exercise of the same, collectively or individually, is prescribed by previous legislation, and the city council may constitute either branch, or any committee of their number, whether joint or separate, the board of health, for all or for particular purposes.

2. Every board of health may appoint a physician to the board, who shall hold his office during its pleasure.

Board of health.
1821, c. 110,
§ 17.
12 Pick. 134.
1849, c. 211,
§ 1.
Board may
appoint phy-
sician. G. S.
23, § 3.

Compensation
of physician.
G. S. 26, § 4.

3. The board shall establish the salary or other compensation of such physician, and shall regulate all fees and charges of persons employed by it in the execution of the health laws and of its own regulations.

Boards of
health may
delegate
agents.
1895, c. 271, § 1.

4. Boards of health in the several cities and towns in this commonwealth may appoint an agent or agents to act for them, respectively, in cases of emergency, or when such board cannot be conveniently assembled; and such agent so appointed shall have, and may exercise, all the authority which the board of health appointing him had; but he shall, within two days, report his action in each case to the board of health for their approval, and shall be directly responsible to, and under the control and direction of, the board of health from which he received such appointment.

NUISANCES, ETC.

Board to make
regulations
respecting
nuisances, etc.
G. S. 26, § 5.
12 Pick. 184.

5. The board shall make such regulations as it judges necessary for the public health and safety, respecting nuisances, sources of filth, and causes of sickness within its town, or on board of vessels within its harbor; and respecting articles which are capable of containing or conveying infection or contagion, or of creating sickness, brought into, or conveyed from, its town, or into, or from, any vessel. Whoever violates any such regulation shall forfeit a sum not exceeding one hundred dollars.

Board to give
notice of regu-
lation.
Ibid. § 6.

6. Notice shall be given by the board of all regulations made by it, by publishing the same in some newspaper of its town, or, where there is no such newspaper, by posting them up in some public place in the town. Such notice shall be deemed legal notice to all persons.

To examine
into and abate
nuisances, etc.
Ibid. § 7.
11 Met. 572.

7. The board shall examine into all nuisances, sources of filth, and causes of sickness within its town, or in any vessel within the harbor of such town, that may in its opinion be injurious to the health of the inhabitants,

and the same shall destroy, remove, or prevent, as the case may require.

8. The board or the health officer shall order the owner or occupant at his own expense to remove any nuisance, source of filth, or cause of sickness, found on private property, within twenty-four hours, or such other time as it deems reasonable after notice served as provided in the following section; and if the owner or occupant neglects so to do, he shall forfeit a sum not exceeding twenty dollars for every day during which he knowingly permits such nuisance or cause of sickness to remain after the time prescribed for the removal thereof.

To order nuisances, etc., abated.
Penalty for refusing.
G. S. 26, § 8.
c. 87, § 5.
c. 88, §§ 40, 42.
1862, c. 74.

9. Such order shall be made in writing, and served by any person competent to serve a notice in a civil suit, personally on the owner, occupant, or his authorized agent; or a copy of the order may be left at the last and usual place of abode of the owner, occupant, or agent, if he is known and within the State. But if the premises are unoccupied, and the residence of the owner or agent is unknown, or without the State, the notice may be served by posting the same on the premises and advertising in one or more public newspapers in such manner and for such length of time as the board or health officer may direct.

Order for abatement, how served.
Ibid. § 9.
c. 87, § 5.
c. 88, §§ 40, 42.
1862, c. 74.
98 Mass. 431.

10. If the owner or occupant fails to comply with such order, the board may cause the nuisance, source of filth, or cause of sickness to be removed, and all expenses incurred thereby shall be paid by the owner, occupant, or other person who caused or permitted the same, if he has had actual notice from the board of health of the existence thereof.

Owner not complying, board to remove nuisance at his expense
Ibid. § 10.
c. 87, § 5.
c. 88, §§ 40, 42.
1862, c. 74.
98 Mass. 431.

11. The board, when satisfied upon due examination that any cellar, room, tenement, or building in its town, occupied as a dwelling-place, has become, by reason of the number of occupants, or want of cleanliness, or other cause, unfit for such purpose and a cause of nuisance or sickness to the occupants, or the public, may issue a

Board may notify occupant of unfit dwelling-places to quit, etc.
G. S. 26, § 11.
11 Met. 372.

G S. 26 § 11. notice in writing to such occupants, or any of them, requiring the premises to be put into a proper condition as to cleanliness, or, if they see fit, requiring the occupants to remove or quit the premises within such time as the board may deem reasonable. If the person so notified, or any of them, neglect or refuse to comply with the terms of the notice, the board may cause the premises to be properly cleansed at the expense of the owners, or may remove the occupants forcibly and close up the premises, and the same shall not be again occupied as a dwelling-place without the consent, in writing, of the board. If the owner thereafter occupies or knowingly permits the same to be occupied without such permission in writing, he shall forfeit a sum not less than ten nor more than fifty dollars.

When a party convicted of a nuisance, court may order it destroyed.
Ibid. § 12.

12. When a person is convicted on an indictment for a common nuisance injurious to the public health, the court in their discretion may order it to be removed or destroyed, at the expense of the defendant, under the direction of the board of health; and the form of the warrant to the sheriff or other officer may be varied accordingly.

Court may issue injunctions, in cases of nuisance.
Ibid. § 13.

13. The superior court, or a justice thereof in term-time or vacation, may, either before or pending a prosecution for a common nuisance affecting the public health, issue an injunction to stay or prevent the same until the matter shall be decided by a jury or otherwise; may enforce such injunction according to the course of proceedings in chancery; and may dissolve the same when the court or one of the justices shall think proper.

Board may make compulsory examination of premises, when refused, etc.
1873, c. 2, § 1.

14. When the board thinks it necessary for the preservation of the lives or health of the inhabitants, to enter any land, building, premises or vessel within its town, for the purpose of examining into and destroying, removing, or preventing any nuisance, source of filth, or cause of sickness, and said board or any agent thereof sent for that purpose shall be refused such entry, any member

of the board or such agent may make complaint under 1873, c. 2, § 1. oath to any justice of any court of record or to two justices of the peace of the county, stating the facts of the case so far as he has knowledge thereof, and said justice or justices may thereupon issue a warrant, directed to the sheriff or any of his deputies, to such agent of the board, or to any constable of such town, commanding him to take sufficient aid, and at any reasonable time repair to the place where such nuisance, source of filth or cause of sickness complained of may be, and the same to destroy, remove or prevent, under the directions of said board.

15. The board may grant permits for the removal of any nuisance, infected articles, or sick person, within the limits of its town, when it thinks it safe and proper so to do. May permit removal of infected articles.
G. S. c. 26, § 15.

INFECTIOUS DISEASES.

16. When any person coming from abroad or residing in any town in this State is infected, or lately has been infected, with the plague or other sickness dangerous to the public health, except as is otherwise provided in this chapter, the board shall make effectual provision in the manner which it judges best for the safety of the inhabitants, by removing such person to a separate house or otherwise, and by providing nurses and other assistants and necessities, which shall be at the charge of the person himself, his parents, or master, if able, otherwise at the charge of the town to which he belongs; and if he is not an inhabitant of any town, at the charge of the commonwealth. Shall make provision for persons infected.
Ibid. § 16.
2 Cush. 52.
See § 52.

17. If the infected person cannot be removed without danger to his health, the board shall make provision for him as directed in the preceding section in the house in which he may be; and may cause the persons in the neighborhood to be removed, and take such other measures as it judges necessary for the safety of the inhabitants. If infected person cannot be removed, others may be, etc.
Ibid. § 17.
See § 52.

Persons near
bordering upon either of the neighboring States, may
appoint, by writing, suitable persons to attend at places
by which travellers may pass from infected places in
other States; who may examine such travellers as it
suspects of bringing any infection dangerous to the
public health, and if need be may restrain them from
travelling until licensed thereto by the board of health
of the town to which such person may come. A travel-
ler coming from such infected place, who shall without
such license travel within this State (except to return by
the most direct way to the State from whence he came),
after he has been cautioned to depart by the persons so
appointed, shall forfeit a sum not exceeding one hundred
dollars.

Two justices of
the peace may
issue warrant
to remove such
person
H. B. § 10.

18. The board of health of any town near to or bordering upon either of the neighboring States, may appoint, by writing, suitable persons to attend at places by which travellers may pass from infected places in other States; who may examine such travellers as it suspects of bringing any infection dangerous to the public health, and if need be may restrain them from travelling until licensed thereto by the board of health of the town to which such person may come. A traveller coming from such infected place, who shall without such license travel within this State (except to return by the most direct way to the State from whence he came), after he has been cautioned to depart by the persons so appointed, shall forfeit a sum not exceeding one hundred dollars.

19. Two justices of the peace may, if need be, make out a warrant, directed to the sheriff of the county, or his deputy, or to any constable, requiring them, under the direction of the board, to remove any person infected with contagious sickness, or to impress and take up convenient houses, lodging, nurses, attendants, and other necessities, for the accommodation, safety, and relief of the sick.

When, upon the application of the board, it appears to a justice of the peace that there is just cause to suspect that any baggage, clothing, or goods found within the town, are infected with the plague or other disease which may be dangerous to the public health, the justice shall, by warrant directed to the sheriff or his deputy, or to any constable, require him to impress so many men as said justice may judge necessary to secure such baggage, clothing, or other goods, and to post said men as a guard over the house or place where such articles are lodged; who shall take effectual care to prevent persons from removing or coming near the same, until due inquiry is made into the circumstances.

20. When, upon the application of the board, it appears to a justice of the peace that there is just cause to suspect that any baggage, clothing, or goods found within the town, are infected with the plague or other disease which may be dangerous to the public health, the justice shall, by warrant directed to the sheriff or his deputy, or to any constable, require him to impress so many men as said justice may judge necessary to secure such baggage, clothing, or other goods, and to post said men as a guard over the house or place where such articles are lodged; who shall take effectual care to prevent persons from removing or coming near the same, until due inquiry is made into the circumstances.

Sheriff may
take houses

21. The justice may, by the same warrant, if it appears to him necessary, require the officers, under the

direction of the Board, to impress and take up convenient houses or stores for the safe-keeping of such articles; and the board may cause them to be removed thereto, or otherwise detained, until, in the opinion of the board, they are freed from infection.

and stores, etc.
for safe keep-
ing of goods,
etc.

G. S. 23, s. 21.

22. The officers, in the execution of the warrant, shall, if need be, break open any house, shop, or other place mentioned in the warrant where such articles are; and may require such aid as is necessary to effect the execution of the warrant. Whoever neglects or refuses to assist in the execution of the warrant, after being commanded to assist by either of said officers, shall forfeit a sum not exceeding ten dollars.

Officers may
break open
houses, shops,
etc., and com-
mand aid.
Ibid. § 22.

23. The charges of securing such articles, and transporting and purifying the same, shall be paid by the owners, at such rates and prices as may be determined by the board.

Expenses to be
paid by own-
ers of goods.
Ibid. § 23.

24. When a sheriff or other officer impresses or takes up any houses, stores, lodging, or other necessities, or impresses men, as provided in this chapter, the several parties interested shall be entitled to a just compensation therefor to be paid by the town in which such persons or property are so impressed.

Town to make
compensation
for houses, etc.,
or services
impressed.
Ibid. § 24.

25. When a person confined in a common jail, house of correction, or workhouse, has a disease which, in the opinion of the physician of the board or of such other physician as it may consult, is dangerous to the safety and health of other prisoners or of the inhabitants of the town, the board shall, by its order in writing, direct the removal of such person to some hospital or other place of safety, there to be provided for and securely kept so as to prevent his escape until its further order. If such person recovers from the disease, he shall be returned to said prison or other place of confinement.

Removal of
prisoners at-
tacked with
disease.
Ibid. § 25.

26. If the person so removed is committed by order of court or under judicial process, the order for his removal, or a copy thereof, attested by the presiding mem-

Return of re-
moval to be
made to court.

Such removal
not an escape.
G. S. 26, § 26.

ber of the board, shall be returned by him, with the doings thereon, into the office of the clerk of the court from which the process of commitment was issued. No prisoner so removed shall thereby commit an escape.

VACCINATION.

Parents, etc.,
to cause child-
ren, etc., to
be vaccinated.
Penalty for
neglect.
Ibid. § 27.

27. Parents and guardians shall cause their children and wards to be vaccinated before they attain the age of two years, and re-vaccinated whenever the selectmen or mayor and aldermen shall after five years from the last vaccination require it. For every year's neglect the party offending shall forfeit the sum of five dollars.

Selectmen, etc.,
to enforce vac-
cination, etc.
Penalty for
neglect.
Ibid. § 28.

28. The selectmen and mayor and aldermen shall require and enforce the vaccination of all the inhabitants, and, whenever in their opinion the public health requires, the re-vaccination of all the inhabitants who do not prove to their satisfaction that they have been successfully vaccinated or re-vaccinated within five years. All persons over twenty-one years of age, not under guardianship, who neglect to comply with any such requirement, shall forfeit the sum of five dollars.

City to provide
means.
Ibid. § 29.

29. Towns shall furnish the means of vaccination to such of their inhabitants as are unable to pay for the same.

Inmates of
manufactories,
almshouses,
etc., to be vac-
cinated.
Ibid. § 30.

30. Incorporated manufacturing companies; superintendents of almshouses. State reform and industrial schools, lunatic hospitals, and other places where the poor and sick are received; masters of houses of correction, jailers, keepers of prisons, the warden of the State prison; and superintendents or officers of all other institutions supported or aided by the State, shall, at the expense of their respective establishments or institutions, cause all inmates thereof to be vaccinated immediately upon their entrance thereto, unless they produce sufficient evidence of previous successful vaccination within five years.

31. Each town may make further provision for the vaccination of its inhabitants, under the direction of the board or a committee chosen for the purpose.

Towns may make further provision for vaccination.
G. S. 26, § 31.

QUARANTINE.

32. A town may establish a quarantine ground in a suitable place either within or without its own limits; but if such place is without its limits, the assent of the town within whose limits it may be established shall be first obtained.

City may establish a quarantine ground.
Ibid. § 32.

33. Two or more towns may at their joint expense establish a quarantine ground for their common use in any suitable place either within or without their own limits; but if such place is without their limits, they shall first obtain the assent of the town within whose limits it may be.

Two or more may establish a common quarantine ground.
Ibid. § 33.

34. The board of health in each seaport town may from time to time establish the quarantine to be performed by vessels arriving within its harbor; and may make such quarantine regulations as it judges necessary for the health and safety of the inhabitants.

Board of health may establish quarantine of vessels.
Ibid. § 34.

Whenever quarantine is imposed on any vessel coming from abroad, and the owner, consignee, master, or other person interested in such vessel or her cargo, shall be interrogated by any member of the board of health in his official capacity, or by the visiting physician of said board, respecting any circumstance or event, touching the health of the crew or passengers on such vessel, or any infection suspected in the cargo, from the time of her first engaging upon the voyage she may then be terminating, and the said owner, consignee, master, or other person interested as aforesaid, shall make any false or unfounded declaration respecting the points under examination, every such owner, consignee, master, or other interested person, upon conviction thereof, in manner as pointed out in the eighth section of the law to which this is an addition, shall forfeit and pay a fine

Penalty if owner or master of vessel make false declaration.
Spec. Laws, v. 3, p. 211, § 3.

not exceeding five hundred dollars, suffer six months' imprisonment, either or both, at the discretion of the court having cognizance of such offence.

Quarantine regulations to extend to all, etc.
G. S. 26, § 35.

35. Such regulations shall extend to all persons, goods, and effects arriving in such vessels, and to all persons who may visit or go on board of the same.

Penalty for violation after notice.
Ibid. § 36.

36. Whoever violates any such regulation, after notice thereof has been given in the manner before provided in this chapter, shall forfeit a sum not less than five nor more than five hundred dollars.

Vessels suspected of infection to be ordered to quarantine.
Ibid. § 37.

37. The board in each seaport town may at all times cause a vessel arriving in such port, when such vessel or the cargo thereof is in its opinion foul or infected so as to endanger the public health, to be removed to the quarantine ground and thoroughly purified at the expense of the owners, consignees, or persons in possession of the same; and may cause all persons arriving in or going on board of such vessel, or handling the cargo, to be removed to any hospital under the care of the board, there to remain under their orders.

Penalty, if master, seaman, etc., refuse to answer on oath, etc.
Ibid. § 38.

38. If a master, seaman or passenger belonging to a vessel on board of which any infection then is or has lately been, or is suspected to have been, or which has been at, or has come from, a port where any infectious distemper prevails that may endanger the public health, refuses to make answer on oath to such questions as may be asked him relating to such infection or distemper by the board of health of the town to which such vessel may come (which oath any member of the board may administer), such master, seaman, or passenger shall forfeit a sum not exceeding two hundred dollars; and if not able to pay said sum, he shall suffer six months' imprisonment.

Quarantine expenses, how paid by person or owner.
Ibid. § 39.

39. All expenses incurred on account of any person, vessel, or goods, under quarantine regulations, shall be paid by such person or the owner of such vessel or goods respectively.

HOSPITALS AND DANGEROUS DISEASES.

40. The city of Boston is hereby authorized to erect, under directions of its board of health and inspector of buildings, any wooden buildings within the city, for hospital purposes, the same to remain only so long as the said board deems it necessary: *provided*, that every such hospital shall be constantly guarded outside by a competent force of at least three of the police of said city.

City authorized to erect wooden buildings for hospitals.
1873, c. 4, § 1.

41. Any town may establish within its limits, and be constantly provided with, one or more hospitals for the reception of persons having a disease dangerous to the public health.

Hospital may be provided by towns.
G. S. 26, § 40.

42. Such hospitals shall be subject to the orders and regulations of the board, or of a committee of the town appointed for that purpose.

To be under orders of board of health.
Ibid. § 41.

43. No such hospital shall be established within one hundred rods of an inhabited dwelling-house situated in an adjoining town, without the consent of such town.

Hospitals not to be within, etc.
Ibid. § 42.

44. When a hospital is so established, the physician, nurses, attendants, the persons sick therein, and all persons approaching or coming within the limits of the same, and all furniture and other articles used or brought there, shall be subject to such regulations as may be made by the board of health or the committee appointed for that purpose.

Physicians, etc., in hospitals subject to board of health.
Ibid. § 43.

45. Whoever erects, occupies, or uses any building in any place, for a hospital in such part thereof as the mayor and aldermen, or selectmen prohibit, shall forfeit a sum not exceeding fifty dollars for every month he so occupies or uses such building, and in like proportion for a longer or shorter time; and the supreme judicial court, or any one of the justices thereof, either in term time or vacation, may issue an injunction to prevent such erection, occupancy or use.

Buildings for hospitals prohibited.
1870, c. 306.

Board of health to provide hospital, etc., and remove sick, etc.
G. S. 26, § 44.
See § 53.

46. When a disease dangerous to the public health breaks out in any town, the board shall immediately provide such hospital or place of reception for the sick and infected as is judged best for their accommodation and the safety of the inhabitants; which shall be subject to the regulations of the board: and the board may cause any sick and infected person to be removed thereto, unless the condition of such person will not admit of his removal without danger to his health, in which case the house or place where he remains shall be considered as a hospital, and all persons residing in or in any way concerned within the same shall be subject to the regulations of the board as before provided.

Selectmen to give notice of infected places.
Ibid. § 45.
See § 53.
1873. c. 2, § 2.

47. When such disease is found to exist in a town, the selectmen and board of health shall use all possible care to prevent the spreading of the infection, and to give public notice of infected places to travellers, by displaying red flags at proper distances, and by all other means which in their judgment shall be most effectual for the common safety. And whoever obstructs the selectmen, board of health or their agent, in using such means to prevent the spreading of the infection, or wilfully removes, obliterates, defaces or handles the red flags or other signals so displayed, shall forfeit for each offence a sum not less than ten nor more than one hundred dollars.

Penalty on persons in hospitals, etc., for violating regulations.
Ibid. § 46.
See § 53.

48. If a physician or other person in any of the hospitals or places of reception before mentioned, or who attends, approaches, or is concerned with the same, violates any of the regulations lawfully made in relation thereto, either with respect to himself, or his or any other's person's property, he shall for each offence forfeit a sum not less than ten nor more than one hundred dollars.

Householders to give notice of dangerous diseases.

49. When a householder knows that a person within his family is taken sick of small-pox or any other disease dangerous to the public health, he shall immediately

give notice thereof to the selectmen or board of health of the town in which he dwells. If he refuses or neglects to give such notice, he shall forfeit a sum not exceeding one hundred dollars.

Penalty.
G. S. 26, § 45.

50. When a physician knows that any person whom he is called to visit is infected with small-pox or any other disease dangerous to the public health, he shall immediately give notice thereof to the selectmen or board of health of the town; and if he refuses or neglects to give such notice he shall forfeit for each offence a sum not less than fifty, nor more than one hundred dollars.

Penalty on
physicians for
not giving no-
tice of dan-
gerous disease.
Ibid. § 48.

51. Expenses incurred by a town in the removal of nuisances or for the preservation of the public health, and which are recoverable of a private person or corporation by virtue of any provisions of law, may be sued for and recovered in an action of contract.

Expenses re-
coverable of
individuals;
how sued for.
Ibid. § 49.

52. Fines and forfeitures incurred under general laws, the special laws applicable to a town, or the by-laws and regulations of a town relating to health, shall inure to the use of such town.

Fines and
forfeitures to
inure to use of
town.
Ibid. § 50.
See G. S. 19,
§ 15.
5 Cush. 408.
Small-pox.
Ibid. § 51.
1852, c. 189.

53. The provisions of sections seventeen, eighteen, forty-six, forty-seven, and forty-eight,¹ so far as they confer authority for the removal of patients from their homes, except in case of persons residing in boarding-houses, hotels, or where two or more families occupy the same dwelling, and in all other cases where in the opinion of the board of health and the attending physician the case cannot be properly isolated, shall not apply to small-pox.

OFFENSIVE TRADES.

54. The board shall from time to time assign certain places for the exercising of any trade or employment

Board to as-
sign places.

¹ Sections 16, 17, 44, 45, and 46 of Chap. 26, General Statutes.

for exercising
offensive
trades, and
may prohibit.
G. S. § 52.
See § 57.
6 Grav, 473.
8 Allen, 325.
11 Allen, 398.

which is a nuisance or hurtful to the inhabitants, or dangerous to the public health, or the exercise of which is attended by noisome and injurious odors, or is otherwise injurious to their estates, and may prohibit the exercise of the same in places not so assigned; the board may also forbid the exercise of such trade or employment within the limits of the town or in any particular locality thereof. All such assignments shall be entered in the records, and may be revoked when the board shall think proper.

Superior court
may, on com-
plaint, revoke
such assign-
ment.
Ibid. § 53.

55. When it appears on a trial before the superior court for the county, upon a complaint made by any person, that any place or building so assigned has become a nuisance, by reason of offensive smells or exhalations proceeding from the same, or is otherwise hurtful or dangerous to the neighborhood or to travellers, the court may revoke such assignment and prohibit the further use of such place or building for the exercise of either of the aforesaid trades or employments, and may cause such nuisance to be removed or prevented.

Action for
damages from
nuisance.
Ibid. § 54.

56. A person injured either in his comfort or the enjoyment of his estate by such nuisance, may have an action of tort for the damage sustained thereby.

Orders of pro-
hibition, etc.,
to be served on
occupant. If
he refuses to
obey, board
may prevent.
Penalty.
Ibid. § 55.

57. Orders of prohibition under section fifty-three shall be served upon the occupant or person having charge of the premises where such trade or employment is exercised. If the party upon whom such order is served, for twenty-four hours after such service refuses or neglects to obey the same, the board shall take all necessary measures to prevent such exercise; and the person so refusing or neglecting shall forfeit a sum not less than fifty nor more than five hundred dollars.

Appeal by
person
aggrieved.
Proceedings.
Ibid. § 56.
1865, c. 263.

58. Any person aggrieved by such order may appeal therefrom, and shall, within three days from the service thereof upon him, apply to the superior court, if in session in the county where such order is made, or in vacation to any justice of said court, for a jury; and

such court or justice shall issue a warrant for a jury, to be impanelled at a time and place expressed in the warrant, in the manner provided in regard to the laying out of highways. Whenever any person by mistake of law, or fact, or by accident fails to appeal from any order of any board of health and to apply to the superior court or any justice thereof for a jury within the three days limited therefor by this section, such person may at any time thereafter appeal from such order and apply for a jury with the same effect as if done within the said three days; *provided*, that such person so appealing and applying shall make it appear to the court or justice that such failure was caused by mistake or accident; and *provided, also*, that such appeal and application shall be made within thirty days after service of such order upon such applicant. G. S. 26, § 56.

59. During the pendency of the appeal such trade or employment shall not be exercised contrary to the order; and upon any violation of the same the appeal shall forthwith be dismissed. Trade not to be exercised meanwhile. Ibid. § 57.

60. The verdict of the jury, which may either alter the order, or affirm or annul it in full, shall be returned to the court for acceptance, as in case of highways; and said verdict, when accepted, shall have the authority and effect of an original order from which no appeal had been taken. Verdict of jury may alter, etc., order: to be returned for acceptance, etc. Ibid. § 58.

61. If the order is affirmed by the verdict, the town shall recover costs against the appellant; if it is annulled, the appellant shall recover damages and costs against the town; and if it is altered, the court may render such judgment as to costs as in their discretion may seem just. Costs, — how and when assessed; on whom; and to what amount. Ibid. § 59.

62. The provisions of this chapter extend to cities so far as the same are not inconsistent with their several charters or acts in amendment thereof. Provisions of this chapter extended to cities. Ibid. § 60.

NUISANCE CAUSED BY WET LANDS.

Wet lands to
be redeemed.
1868, c. 160, § 1.

63. By an act passed April 29, 1868, the provisions of chapter twenty-six of the General Statutes, relating to the preservation of the public health, were extended as follows: When any lands in any city or town are wet, rotten, or spongy, or covered with stagnant water, so as to be offensive to persons residing in the vicinity thereof, or injurious to health, the same shall be deemed to be a nuisance, and the board of health or health officer of such city or town may, upon petition and hearing, abate such nuisance in the manner provided in the following sections.

When a nuisance, how
abated.
Ibid. § 2.

64. Any one or more persons claiming to be injuriously affected by such nuisance may, by petition, describing the premises upon which such nuisance is claimed to exist, and setting out the nature of the nuisance complained of, apply to the board of health or health officer for its abatement, whereupon such board of health, or health officer, shall proceed to view the premises and examine into the nature and cause of such nuisance.

Hearing may
be had.
Ibid. § 3.

65. If upon such examination the board of health or health officer shall be of opinion that the prayer of the petition or any part thereof should be granted, he or they shall appoint a time and place for a hearing upon the petition, and before the time so appointed shall cause reasonable notice of the time and place to be given to the petitioners, the persons whose lands it may be necessary to enter upon to abate the nuisance, and any other persons who may be affected by the proceedings, and, except in those cities and towns in which the mayor and aldermen and selectmen constitute the board of health, to the mayor and the chairman of the selectmen, that they may be heard upon the necessity and mode of abating such nuisance, and the questions of damages, and of the assessment and apportionment of the expenses thereof.

66. Such notice shall be in writing, and may be served by any person competent to serve civil process, upon the mayor and chairman of the selectmen, the petitioners, the owner or occupant of any land upon which it may be necessary to enter, or which may be benefited thereby, or his authorized agent, or by leaving an attested copy of such notice at the last and usual place of abode of such persons; but if the lands are unoccupied, and the owner or agent is unknown, or without the State, the notice to such owner may be served by posting an attested copy thereof upon the premises, or by advertising in one or more public newspapers in such manner and for such length of time as the board of health or health officer may direct.

Notice of, how served.
1868, c. 160, § 4.

67. At the time and place appointed for the hearing, the board of health or health officer shall hear the parties, and after such hearing may cause such nuisance to be abated, according to his or their discretion; and for that purpose may enter and make such excavations, embankments and drains upon any lands, and under and across any streets and ways as may be necessary for such abatement. They shall also determine in what manner and at whose expense the improvements made shall be kept in repair, and shall estimate and award the amount of damage sustained by and benefit accruing to any person by reason of such improvements, and what proportion of the expense of making and keeping the same in repair shall be borne by the city or town and by any person benefited thereby. The damages so awarded shall be paid by the city or town, and there shall be assessed to the several persons benefited by such improvements, his proportionate part, to be ascertained as before provided, of the expense of making and keeping in repair such improvements, and the same shall be included in the next city or town taxes of such persons, and shall be a lien upon the real estate benefited thereby, and be collected in the same manner as other taxes upon real

Expense and damages, how assessed.
Ibid. § 5.

estate, and shall be liable to abatement as other taxes now are.

Record to be
made.
1868, c. 100, § 5.

68. The boards of health and health officer shall, within thirty days after the abatement of any nuisance in the manner hereinbefore provided, make return to the city or town clerk of their doings in the premises, which return shall be by him recorded in the city or town books.

Proceedings
if board of
health will not
act.
Ibid. § 7.

69. If the board of health or health officer shall unreasonably refuse or neglect to proceed in the matter of said petition, the petitioner may apply by petition to the superior court, or any justice thereof, who, upon a hearing and good cause shown, may appoint three commissioners, who shall proceed in the manner hereinbefore provided.

Appeal, how
made.
Ibid. § 8.

70. Any person aggrieved by the decision of the board of health, health officer, or commissioners in their estimate and award of damages, may make complaint to the county commissioners for the county, at any time within one year after return to the city or town clerk, whereupon the same proceedings shall be had as are now provided by law in cases where persons or parties are aggrieved by the award of damages by selectmen for land taken for a town way.

UNDERTAKERS.

Undertakers
to be licensed
by board of
health.
1872, c. 275,
§ 1.

71. The boards of health of towns and the mayor and aldermen of cities shall, on or before the first day of July next, [1872,] and each year thereafter, license a suitable number of undertakers to take charge of the obsequies or funeral rites preliminary to the interment of a human body, if, in the judgment of such boards, a sufficient number are not already licensed in their respective places. Any undertaker, having such charge, shall forthwith obtain and return to the clerk of the city or town in which the deceased resided or the death occurred, the facts required by chapter twenty-one of the General Statutes, to be recorded by said officer concern-

To make the
returns re-
quired by G.
S. 21.

ing the deceased; the clerk shall thereupon give to the undertaker a certificate as provided for in section four of said chapter, which certificate the undertaker shall deliver to the person having charge of the interment in accordance with the provisions of said fourth section. Any undertaker violating any of the provisions of this act shall be punished by a fine of twenty dollars for each violation of the duties herein prescribed, to be imposed by any court of competent jurisdiction.

To receive certificate from clerk and deliver it to person having charge of burial.
1872, c. 275, § 1.

Penalty.

72. Nothing herein contained shall exempt any sexton or other person named in the fourth section of the twenty-first chapter of the General Statutes from the provisions and penalties prescribed in said section in cases where an undertaker appointed as provided in this act is not employed in charge of the obsequies.

Sextons not exempted from G. S. 21, § 4. when undertaker is not in charge of obsequies.
Ibid. § 2.

DEAD BODIES.

73. The overseers of the poor of a town, the mayor and aldermen of a city, and the inspectors and superintendent of a State almshouse, may, to any physician or surgeon, upon his request, give permission to take the bodies of such persons dying in such town, city or almshouse, as are required to be buried at the public expense, to be by him used within the State, for the advancement of anatomical science; preference being given to medical schools established by law, for their use in the instruction of students.¹

Overseers of poor, &c., to give dead bodies to physicians in certain cases.
G. S. 27, § 1.

74. Every physician or surgeon, before receiving any such dead body, shall give to the board of officers surrendering the same to him, a sufficient bond that each body shall be used only for the promotion of anatomical science within this State, and so as in no event to outrage the public feeling; and that, after having been so used, the remains thereof shall be decently buried.

Physicians, &c., to give bond on receiving a dead body.
Ibid. § 2.

¹ See order of mayor and aldermen, passed November 9, 1869. City records, vol. 47, page 1287.

Persons having charge of poor-houses, &c., to give notice of death.

G. S. 27, § 3.

When dead bodies are not to be given to physicians, etc.

Ibid. § 4.

Violation of sepulture, penalty for.

G. S. 165, § 37.

10 Pick. 37.

10 Pick. 304.

Buying or having dead body for the purpose of sale, etc., penalty for.

Ibid. § 38.

75. Persons having charge of a poor-house work-house, or house of industry, in which a person required to be buried at the public expense dies, shall forthwith give notice of such death to the overseers of the poor of the town or to the mayor and aldermen of the city in which such death occurs; and except in case of necessity, the body of such person shall not be buried until such notice is given, and permission therefor granted by such overseers or mayor and aldermen; nor without their permission shall the body be surrendered for dissection or mutilation.

76. If the deceased person during his last sickness, of his own accord requested to be buried, or if, within twenty-four hours after his death, any person claiming to be and satisfying the proper authorities that he is a friend or of kindred to the deceased, asks to have the body buried, or if such deceased person was a stranger or traveller who suddenly died, the body shall not be so surrendered, but shall be buried.

77. Whoever, not being authorized by the board of health, overseers of the poor, directors of a workhouse, selectmen, or mayor and aldermen of any city or town, by the board of directors for public institutions, or overseers of the poor of the city of Boston, wilfully digs up, disinters, removes, or conveys away, any human body, or the remains thereof, or knowingly aids in such disinterment, removal, or conveying away, and whoever is accessory thereto, either before or after the fact, shall be punished by imprisonment in the State prison not exceeding one year, or in the jail not exceeding two years, or by fine not exceeding two thousand dollars.

78. Whoever buys, sells, or has in his possession for the purpose of buying or selling, or trafficking in, the dead body of any human being, shall be punished by fine of not less than fifty nor exceeding five hundred dollars, or by imprisonment in the jail not less than three months, nor exceeding three years.

CEMETERIES AND BURIALS.

79. Each town and city shall provide one or more suitable places for the interment of persons dying within its limits. Ed. 1888, c. 28, § 1. G. S. 28, § 1.

80. Except in the case of the erection or use of a tomb on private land for the exclusive use of the family of the owner, no land, other than that already so used or appropriated, shall be used for the purpose of burial, unless by permission of the town or of the mayor and aldermen of the city in which the same is situated. Private land not to be used for burials, etc. Ed. 1888, c. 28, § 2. See § 81.

81. Boards of health may make all regulations which they judge necessary concerning burial-grounds and interments within their respective limits; may prohibit the use of tombs by undertakers (as places of deposit for bodies committed to them for burial), for the purpose of speculation, and may establish penalties not exceeding one hundred dollars for any breach of such regulations. Boards of health may make regulations, etc. Ed. 1888, c. 28, § 3. See § 81.

82. Notice of such regulations shall be given by publishing the same in some newspaper of the town or city, or, if there is no such newspaper, by posting a copy in some public place therein, which shall be deemed legal notice to all persons. To give notice of regulations, etc. Ed. 1888, c. 28, § 4. See § 75.

83. Before a tomb, burial-ground, or cemetery is closed by order of the board of health for a time longer than one month, all persons interested shall have an opportunity to be heard, and personal notice of the time and place of hearing shall be given to at least one owner of the tomb, and to three at least, if so many there are of the proprietors of such burial-ground or cemetery, and notice shall also be published two successive weeks at least preceding such hearing, in two newspapers, if so many there are published in the county. Notice to be given before closing tombs, etc., by order of board. Ibid. § 5.

84. The owner of a tomb aggrieved by the order of the board of health closing any tomb, burial-ground, or cemetery, may appeal therefrom, and at any time within six months from the date of the order enter his appeal in Appeal from order of board. Ibid. § 9.

the superior court; and the appellant shall give the board of health fourteen days' notice of his appeal previous to the entry thereof. But the order of the board shall remain in force until a decision shall be had on the appeal.

To be tried by
a jury. Costs.
G S. 23, § 10.

85. Appeals shall be tried in regular course before a jury, and if the jury find that the tomb, burial-ground, or cemetery so closed was not a nuisance, nor injurious to the public health at the time of the order, the court shall rescind the same so far as it affects such tomb, burial-ground, or cemetery, and execution for costs of the appeal shall issue in favor of the appellant against the town or city in which the same was situated. But if the order is sustained, execution shall issue for double costs against the appellant in favor of the board of health for the use of the town or city.

Penalty for
violation of
this chapter.
Ibid. § 11.

86. For every increment in violation of section eighty in a city or town in which the notice prescribed in section eighty-three has been given, the owner of the land so used shall forfeit not less than twenty nor more than one hundred dollars.

For injuring
tombs, etc.
Ibid. § 12.
2 Allen, 512.
7 Allen, 299.

87. Whoever wrongfully destroys, impairs, injures, or removes a tomb, gravestone, building, fence, railing, or other thing lawfully erected in or around a place of burial, or a cemetery, or a tree, shrub, or plant situate within its limits, or wrongfully injures a walk or path therein, or places rubbish or offensive matter within a place of burial or cemetery, or commits any nuisance therein, or in any way desecrates or disfigures the same, shall forfeit for every such offence not less than five nor more than one hundred dollars. Upon the trial of a prosecution for the recovery of such penalty, use and occupation for the purposes of burial shall be deemed sufficient evidence of title.

Proof of title.
Ibid.

Injuring or
defacing
tombs, me-

88. Whoever wilfully destroys, mutilates, defaces, injures, or removes any tomb, monument, gravestone, or other structure or thing placed or designed for a me-

material of the dead, or any fence, railing, curb, or other thing intended for the protection or ornament of any tomb, monument, gravestone, or other structure, before mentioned, or of any inclosure for the burial of the dead, or wilfully destroys, mutilates, removes, cuts, breaks, or injures any tree, shrub, or plant placed or being within any such enclosure, or wantonly or maliciously disturbs the contents of a tomb or grave, shall be punished by fine not exceeding five hundred dollars nor less than ten dollars, or by imprisonment in the jail not exceeding one year.

89. Whoever lays out, opens, or makes a highway or townway, or constructs a railroad, turnpike, or canal, or any other thing in the nature of a public easement, over, through, in, or upon any part of such enclosure, being the property of a city, town, parish, religious society, or of private proprietors, used and appropriated for the burial of the dead, unless an authority for that purpose is specially granted by law, or unless the consent of such city, town, parish, religious society, or proprietors respectively is first obtained, shall be punished by fine not exceeding two thousand dollars, or by imprisonment in the jail not exceeding one year.

OFFENCES AGAINST THE PUBLIC HEALTH.

90. Whoever knowingly sells any kind of diseased, corrupted, or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer, shall be punished by imprisonment in the jail not exceeding six months, or by fine not exceeding two hundred dollars.

91. Whoever kills, or causes to be killed, for the purpose of sale, any calf less than four weeks old; or knowingly sells, or has in his possession with intent to sell, the meat of any calf killed when less than four weeks old. — shall be punished by imprisonment in the jail or house of correction not exceeding six months; or by fine

materials of the dead, etc.
G. S. 207, 100

Making —
enclosure, etc.
through
highway,
canal, etc.
over, through,
in, or upon
any part of
such enclosure,
being the
property of
a city, town,
parish, religious
society, or
of private
proprietors,
used and
appropriated
for the
burial of the
dead, unless
an authority
for that
purpose is
specially
granted by
law, or unless
the consent
of such city,
town, parish,
religious
society, or
proprietors
respectively
is first
obtained,
shall be
punished
by fine not
exceeding
two thousand
dollars, or
by imprisonment
in the jail
not exceeding
one year.

Selling corrupted or unwholesome provisions.
without making
the same fully
known to the
buyer.
G. S. 100, 101.
12 Cush. 400.

Young calves
not to be
killed for sale,
or sold.
1866, c. 302, § 1.
See p. 100.
97 Mass. 507.

1862, c. 20, § 1: not exceeding two hundred dollars; or by both such imprisonment and fine; and all such meat exposed for sale, or kept with intent to make sale thereof, may be seized and destroyed by any board of health, or health officer, or by any sheriff, deputy sheriff, constable, or police officer.

Search warrants
may be issued
when meat is
exposed for
sale.

1862, c. 20, § 2

92. When complaint is made on oath to any police court or magistrate authorized to issue warrants in criminal cases, that the complainant believes that any meat such as is described in the first section is kept or concealed in any particular house or place, with the intent to sell, or offer the same for sale, the court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a warrant to search for such meat; and all such warrants shall be directed and executed in the manner provided in the third section of the one hundred and seventeenth chapter of the General Statutes.

Adulterating
food.
G. S. 106, § 3.

93. Whoever fraudulently adulterates, for the purpose of sale, bread or any other substance intended for food, with any substance injurious to health, shall be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding three hundred dollars; and the articles so adulterated shall be forfeited and destroyed under the direction of the court.

Adulteration
of liquor used
for medicinal
purposes.
G. S. 106, § 4.

94. Whoever adulterates, for the purpose of sale, any liquor used or intended for drink, with *arsenic*, *belladonna*, *veratrum*, grains of paradise, opium, alum, cayenne, capers, laurel water, baywood, Brazil wood, cochineal, sugar of lead, or any other substance which is poisonous or injurious to health; and whoever knowingly sells any such liquor so adulterated, shall be punished by imprisonment in the State prison not exceeding three years; and the articles so adulterated shall be forfeited.

Adulteration
of drugs and
medicines.
1862, c. 20, § 5.

95. Whoever fraudulently adulterates, for the purpose of sale, any drug or medicine, or sells any fraudulently adulterated drug or medicine, knowing the same to be adulterated, shall be punished by imprisonment in the

jail not exceeding one year, or by fine not exceeding U. S. 100, § 5. four hundred dollars; and such adulterated drugs and medicines shall be forfeited and destroyed under the direction of the court.

96. Whoever wilfully or maliciously defiles, corrupts, or makes impure any spring or other source of water or reservoir, or destroys or injures any pipe, conductor of water, or other property pertaining to an aqueduct, or aids or abets in any such trespass, shall be punished by fine not exceeding one thousand dollars, or by imprisonment in the jail not exceeding one year.

Wilfully cor-
rupting
springs, etc.,
or injuring
aqueduct.
Ibid. § 6.

97. If any apothecary or other person sells any arsenic, strychnine, corrosive sublimate or prussic acid without the written prescription of a physician, he shall keep a record of the date of such sale, the article, the amount thereof sold, and the person or persons to whom delivered; and for each neglect he shall forfeit a sum not exceeding fifty dollars. Whoever purchases deadly poisons, as aforesaid, and gives a false or fictitious name to the apothecary or other person, shall be punished by fine not exceeding fifty dollars.

Person sell-
ing arsenic,
etc., to keep
record, etc.
Purchasers
who give false
names, etc.
Ibid. § 7.

98. Whoever sells within this State or exports therefrom tainted or damaged fish, unless with the intent that the same shall be used for some other purpose than as food, shall forfeit the sum of ten dollars for every hundred pounds of such fish, and in the same proportion for any other quantity; and upon a trial in such case the burden of proof shall be upon the defendant to show for what purpose such fish was so exported or sold.

Damaged fish
not to be sold
or exported,
etc. Penalty.
G. S. 49, § 57.

INSPECTION OF PROVISIONS.

99. The mayor and aldermen of cities and the selectmen of towns may annually appoint one or more persons to be inspectors of provisions, who shall be sworn to faithfully discharge the duties of their office, and who shall receive such compensation as the city council of cities or the selectmen of towns shall determine.

Appointment
of Inspectors
of Provisions.
1872, c. 281, § 1.

Powers and
duties of In-
spectors.
Ibid. § 2.

100. Said inspectors shall have power to inspect all meats, fish, vegetables, produce and provisions of all kinds brought into said cities or towns, or exposed for sale or kept with intent to sell therein; and may for this purpose enter into all buildings where said meats, fish, vegetables, produce or provisions are stored or exposed for sale. When such meat, fish, vegetables, produce or provisions are found on such inspection to be tainted, diseased, corrupted, decayed or unwholesome from any cause, said inspectors shall seize the same and cause it to be destroyed or disposed of otherwise than for food; *provided, however*, that if the owner of the property seized shall at the time of seizure notify said inspector in writing of his desire to appeal to the board of health, said inspector shall cause said meat, fish, vegetables, produce or provisions to be inspected by said board of health or by a committee thereof, consisting of not less than two members, and if said board or committee shall find the same to be tainted, diseased, corrupted, or unwholesome, they shall order the same to be destroyed or disposed of otherwise than for food. All moneys received by said inspector or board of health for property disposed of as aforesaid, shall, after deducting all expenses incurred by reason of said seizure, be paid to the owner thereof.

Inspection
of veal.
Ibid. § 3.

101. Said inspectors shall have power to inspect all veal brought into said cities or towns, or offered or exposed for sale or kept with intent to sell therein, and if said veal is, in the judgment of the inspector, that of a calf killed under four weeks old, he shall seize the same and cause it to be destroyed or disposed of, as provided in the preceding section, subject, however, to the same provisions concerning appeal and the disposal of moneys that are therein contained.

Complaints
concerning
tainted meats.
Ibid. § 4.

102. When complaint is made on oath to any police court or magistrate authorized to issue warrants in criminal cases, that the complainant believes that any tainted,

diseased, corrupted, decayed or unwholesome meat, fish, vegetables, produce or provisions of any kind, or any veal of a calf killed under four weeks old is kept or concealed in any particular house or place with the intent to sell or offer the same for sale, the court or magistrate, if satisfied there is reasonable cause for such belief, shall issue a warrant to search for such articles, and all such warrants shall be directed and executed as provided in the third section of chapter one hundred and seventy of the General Statutes.

103. Whoever knowingly sells, or offers, or exposes for sale, or has in his possession with intent to sell as articles of food, any tainted, diseased, corrupted, decayed or unwholesome meat, fish, vegetables, produce or provisions of any kind whatever, shall be punished by imprisonment in jail not exceeding sixty days, or by fine not exceeding one hundred dollars.

Penalty for
selling un-
wholesome
meats.
Ibid. § 5.

104. The name and place of business of every person whose property shall be condemned under this act, or who shall be convicted of an offence under the previous section, shall be published in two newspapers published in the county.

Names of
offenders to
be published.
Ibid. § 6.

105. This act shall not be in force in any city or town unless adopted by the city council of such city, or by the inhabitants of such town. [Adopted June 21, 1872.]

Act to be
accepted.

TENEMENT HOUSES, ETC.

106. A "tenement house" shall be taken to mean and include every house, building or portion thereof which is rented, leased, let or hired out to be occupied, or is occupied as the house or residence of more than three families living independently of one another, and doing their cooking upon the premises, or by more than two families upon a floor, so living and cooking, but having a common right in the halls, stairways, yards, water-closets or privies, or some of them.

1871, c. 280.
1873, c. 328.

A "lodging house" shall be taken to mean and include

any house or building, or portion thereof, in which persons are lodged for hire for a single night or for less than a week at one time.

A "cellar" shall be taken to mean and include every basement or lower story of any building or house, of which one-half or more of the height from the floor to the ceiling is below the level of the street adjoining.

Lodging-
house.
Census.
Tenement or
lodging
houses not to
be converted
into, &c.
1874, c. 289,
§ 34.

107. No house, building, or portion thereof, in the city of Boston, used, occupied, leased or rented for a tenement or lodging house, shall continue to be so used, occupied, leased or rented, unless the same, on the requisition of the board of health, shall conform in its construction and appurtenances to the provisions of this act. And the inspector of buildings shall see that the requisitions of the board of health in regard to the repair and alterations of tenement or lodging houses are properly carried out; and shall approve all plans for the construction of new tenement or lodging houses. If in any case the inspector shall see fit to prohibit the erection of the building according to the plan, the owner or architect shall have the right of appeal, as provided in section nineteen [of chap. 284, 1871].

Exterior walls
of tenement
houses to be of
brick or stone.
Ibid. § 35.

108. The exterior walls of all tenement or lodging houses hereafter erected shall be of brick or stone; and those hereafter erected on streets not more than twenty feet in width shall not exceed thirty feet in height.

Ventilation of
tenement and
lodging
houses.
Ibid. § 36.

109. Every house, building, or portion thereof, in the city of Boston, designed to be used, occupied, leased or rented, or which is used, occupied, leased or rented for a tenement or lodging house, shall have in every room which is occupied as a sleeping-room, and which does not communicate directly with the external air, a ventilating or transom window, having an opening or area of three square feet over the door leading into and connected with the adjoining room, if such adjoining room communicates with the external air; and also a ventilating or transom window, of the same

opening or area, communicating with the entry or hall of the house, or where this is, from the relative situation of the rooms impracticable, such last mentioned ventilating or transom window shall communicate with an adjoining room that itself communicates with the entry or hall. Every such house or building shall have in the roof, at the top of the hall, an adequate and proper ventilator, of a form approved by the inspector of buildings.

1871, c. 260,
§ 35.

110. Every such house shall be provided with a proper fire-escape, or means of escape in case of fire, to be approved by the inspector of buildings.

Fire-escape
Ibid. § 37.

111. The roof of every such house shall be kept in good repair and so as not to leak, and all rain-water shall be so drained or conveyed therefrom as to prevent its dripping on ground or causing dampness in the walls, yard or area. All stairs shall be provided with proper balusters or railings, and shall be kept in good repair.

Roof to be
kept tight.
Ibid. § 38.

112. Every such building shall be provided with good and sufficient water-closets, earth-closets or privies, of a construction approved by the inspector of buildings, and shall have proper doors, traps, soil-pans and other suitable works and arrangements, so far as may be necessary, to ensure the efficient operation thereof. Such water-closets or privies shall not be less in number than one to every twenty occupants of said house; but water-closets and privies may be used in common by the occupants of any two or more houses; *provided*, the access is convenient and direct; and *provided*, the number of occupants in the houses for which they are provided shall not exceed the proportion above required for every privy or water-closet. Every such house situated upon a lot on a street in which there is a sewer, shall have the water-closets or privies furnished with a proper connection with the sewer, which connection shall be in all its parts ade-

Water-closets
earth-closets
and privies.
Ibid. § 39.

Provisos.

1871, c. 280,
§ 30a.

quate for the purpose, so as to permit entirely and freely to pass whatever enters the same. Such connection with the sewer shall be of a form approved by the inspector of buildings, and all such water-closets and vaults shall be provided with the proper traps, and connected with the house sewer by a proper tight pipe, and shall be provided with sufficient water and other proper means of flushing the same: and every owner, lessee and occupant shall take due measures to prevent improper substances from entering such water-closets or privies or their connections, and to secure the prompt removal of any improper substances that may enter them, so that no accumulation shall take place, and so as to prevent any exhalations therefrom, offensive, dangerous or prejudicial to life or health, and so as to prevent the same from being or becoming obstructed. No

Cesspools.

cesspool shall be allowed in or under or connected with any such house, except when it is unavoidable, and in such case it shall be constructed in such situation and in such manner as the inspector of buildings may direct. It shall in all cases be water-tight and arched or securely covered over, and no offensive smell or gases shall be allowed to escape therefrom, or from any privy or privy vault. In all cases where a sewer exists in the street upon which the house or building stands, the yard or area shall be so connected with the same, that all water, from the roof or otherwise, and all liquid filth shall pass freely into it. Where no sewer exists in the street, the yard or area shall be so graded that all water, from the roof or otherwise, and all filth, shall flow freely from it and all parts of it, into the street gutter, by a passage beneath the sidewalk, which shall be covered by a permanent cover, but so arranged as to permit access to remove obstructions or impurities.

Cellars and underground

113. From and after the passage of this act it shall not be lawful, without a permit from the board of

health or superintendent of health, to let or occupy, or suffer to be occupied separately as a dwelling, any vaults, cellar or underground room, built or rebuilt after said date, or which shall not have been so let or occupied before said date. And it shall not be lawful, without such permit, to let or continue to be let, or to occupy, or suffer to be occupied, separately as a dwelling, any vault, cellar or underground room whatsoever, unless the same be in every part thereof at least seven feet in height, measured from the floor to the ceiling thereof, nor unless the same be for at least one foot of its height above the surface of the street or ground adjoining, or nearest to the same, nor unless there be outside of and adjoining the said vault, cellar or room, and extending along the entire frontage thereof, and upwards from six inches below the level of the floor thereof, up to the surface of the said street or ground, an open space of at least two feet and six inches wide in every part, nor unless the same be well and effectually drained by means of a drain, the uppermost part of which is one foot at least below the level of the floor of such vault, cellar or room, nor unless there is a clear space of not less than one foot below the level of the floor, except where the same is cemented, nor unless there be appurtenant to such vault, cellar or room, the use of a water-closet or privy, kept and provided as in this act required, nor unless the same have an external window-opening of at least nine superficial feet clear of the sash frame, in which window-opening there shall be fitted a frame filled in with glazed sashes, at least four and a half superficial feet of which shall be made so as to open for the purpose of ventilation: *provided*, rooms used as dwellings. Ibid. § 40. *however*, that in case of an inner, or back vault, cellar or room, let or occupied along with a front vault, cellar or room, as a part of the same letting or occupation, it shall be a sufficient compliance with the provisions of this act, if the front room is provided with a window as Provisos.

1871, c. 280,
§ 40.

heretofore provided, and if the said back vault, cellar or room is connected with the front vault, cellar or room by a door, and also by a proper vent, flag or transom-window, and, where practicable, also connected by a proper ventilating or transom-window, or by some hall or passage, or with the external air: *provided, always*, that in any area adjoining a vault, cellar or underground room, there may be steps necessary for access to such vault, cellar or room, if the same be so placed as not to be over, across or opposite to said external window and so as to allow between every part of such steps and the external wall of such vault, cellar or room, a clear space of six inches at least, and if the rise of said steps is open: and *provided, further*, that over or across any such area there may be steps necessary for access to any building above the vault, cellar or room, to which such area adjoins, if the same be so placed as not to be over, across or opposite to any such external window.

Occupied to
be occupied
for lodging,
or as a place
for possession of
board of
health.
Ibid. § 41.

114. From and after the passage of this act, no vault, cellar or underground room, in any tenement or lodging house, shall be occupied as a place of lodging or sleeping, except the same shall be approved in writing, and a permit given therefor by the board of health or superintendent.

Receptacle for
garbage and
other refuse
matters.
Ibid. § 42.

115. Every tenement or lodging house shall have the proper and suitable conveniences or receptacles for receiving garbage and other refuse matters. No tenement or lodging house, or any portion thereof, shall be used as a place of storage for any combustible article, or any article dangerous to life or detrimental to health; nor shall any horse, cow, calf, swine, pig, sheep or goat be kept in said house.

Tenement
houses to be
kept clean.
1871, c. 280,
§ 43.

116. Every tenement or lodging house, and every part thereof, shall be kept clean and free from any accumulation of dirt, filth, garbage or other matter in or on the same, or in the yard, court, passage, area or

alley connected with or belonging to the same. The owner or keeper of any lodging house, and the owner or lessee of any tenement house or part thereof, shall thoroughly cleanse all the rooms, passage, stairs, floors, windows, doors, walls, ceilings, privies, cesspools and drains thereof of the house, or part of the house, of which he is the owner or lessee, to the satisfaction of the board of health, so often as shall be required by or in accordance with any regulation or ordinance of said city, and shall well and sufficiently, to the satisfaction of said board, whitewash the walls and ceilings thereof twice at least every year, in the months of April and October, unless the said board shall otherwise direct. Every tenement or lodging house shall have legibly posted or painted on the wall or door in the entry, or some public accessible place, the name and address of the owner or owners and of the agent or agents, or any one having charge of the renting and collecting of the rents for the same; and service of any papers required by this act, or by any proceedings to enforce any of its provisions, or of the acts relating to the board of health, shall be sufficient, if made upon the person or persons so designated as owner or owners, agent or agents.

Walls and ceilings to be whitewashed twice a year.

117. The keeper of any lodging house, and the owner, agent of the owner, lessee and occupant of any tenement house, and every other person having the care or management thereof, shall, at all times, when required by any officer of the board of health, or by any officer upon whom any duty or authority is conferred by this act, give him free access to such house and to every part thereof. The owner or keeper of any lodging house, and the owner, agent of the owner, and the lessee of any tenement house, or part thereof, shall, whenever any person in such house is sick of fever, or of any infectious, pestilential or contagious disease, and such sickness is known to such owner, keeper, agent or lessee, give immediate notice

Keeper of lodging house and owner of tenement to give free access to officers.
Ibid. § 44.

—to give notice of contagious diseases, etc.

1871, c. 230,
§ 44.

thereof to the board of health, or to some officer of the same, and thereupon, said board shall cause the same to be inspected, and may, if found necessary, cause the same to be immediately cleansed or disinfected at the expense of the owner, in such manner as they may deem necessary and effectual; and they may also cause the blankets, bedding and bed-clothes used by any such sick person to be thoroughly cleansed, secured and fumigated, and in extreme cases to be destroyed.

Board of
health may
cause premises
to be vacated
when unfit for
habitation.
Ibid. § 45.

118. Whenever it shall be certified to the board of health by the superintendent, that any building, or part thereof, is unfit for human habitation, by reason of its being so infected with disease as to be likely to cause sickness among the occupants, or by reason of its want of repair has become dangerous to life, said board may issue an order, and cause the same to be affixed conspicuously on the building, or part thereof, and to be personally served upon the owner, agent or lessee, if the same can be found in this state, requiring all persons therein to vacate such building for the reasons to be stated therein as aforesaid.

Such building, or part thereof, shall, within ten days thereafter, be vacated; or within such shorter time, not less than twenty-four hours, as in said notice may be specified; but said board, if it shall become satisfied that the danger from said house, or part thereof, has ceased to exist, may revoke said order, and it shall thenceforward become inoperative.

Tenement
houses, etc.,
not to be used
until regula-
tions are
complied with.
1871, c. 230,
§ 46.

119. No house hereafter erected shall be used as a tenement house or lodging house, and no house heretofore erected, and not now used for such purpose, shall be converted into, used or leased for a tenement or lodging house, unless in addition to the requirements herein before contained, it conforms to the requirements contained in the following sections.

Distances
requisite be-

120. It shall not be lawful hereafter to erect for, or convert to, the purposes of a tenement or lodging house,

a building on the front of any lot where there is another building on the rear of the same lot, unless there is a clear, open space, exclusively belonging to the front building and extending upwards from the ground, of at least ten feet between said buildings, if they are one story high above the level of the ground; if they are two stories high, the distance between them shall not be less than fifteen feet; if they are three stories high, the distance between them shall be twenty feet; and if they are more than three stories high, the distance between them shall be twenty-five feet. At the rear of every building hereafter erected for or converted to the purposes of a tenement or lodging house on the back part of any lot, there shall be a clear open space of ten feet between it and any other building. But when thorough ventilation of such open spaces can be otherwise secured, said distances may be lessened or modified, in special cases, by a permit from the inspector of buildings.

121. In every such house hereafter erected or converted, every habitable room, except rooms in the attic, shall be in every part not less than eight feet in height from the floor to the ceiling; and every habitable room in the attic of any such building shall be at least eight feet in height from the floor to the ceiling, throughout not less than one-half the area of such room. Every such room shall have at least one window connected with the external air, or over the door a suitable ventilator, connecting it with a room or hall which has a connection with the external air. The total area window in every room communicating with the external air shall be equal to at least one-tenth of the superficial area of every such room; and the top of one at least of such windows shall not be less than seven feet and six inches above the floor, and the upper half of each window shall be so made as to open for the purposes of ventilation. Every habitable room of a less area than one hundred superficial feet, if it does not communicate directly with the external air, and is without

between walls of
tenement and
houses and
other build-
ings.
Ibid. § 47.

Height of
rooms.
Ibid. § 48

Windows.

Ventilation
for rooms that
do not com-
municate with
open air.

1871, c. 280,
§ 48.

Fire-place for
every family.
Ibid. § 49.

Receptacles
for ashes, etc.

Cellar-floor to
be cemented.

Board of
health may
make other
regulations.
1872, c. 260, § 4.

an open fire-place, shall be provided with special means of ventilation by a separate air-shaft extending to the roof, or otherwise, as the inspector of buildings may prescribe.

122. Every such house hereafter erected or converted, shall have adequate chimneys, running through every floor, with an open fire-place or grate, or place for a stove, properly connected with one of said chimneys, for every family and set of apartments. It shall have proper conveniences and receptacles for ashes and rubbish: it shall have water furnished at one or more places in such house, or in the yard thereof, so that the same may be adequate and reasonably convenient for the use of the occupants thereof. It shall have the floor of the cellar properly cemented, so as to be water-tight. The halls on each floor shall open directly to the external air, with suitable windows, and shall have no room or other obstruction at the end, unless sufficient light or ventilation is otherwise provided for said halls, in a manner approved by the inspector of buildings.

123. The board of health shall have authority to make other regulations as to cellars and the ventilation of tenement houses. The Municipal Court of the city of Boston, the Municipal Court of the Dorchester District, and the Municipal Court of the Southern District, shall have jurisdiction concurrent with the Superior Court of all offences against sections forty, forty-one, forty-two, forty-three, forty-four and forty-five of chapter two hundred and eighty of the acts of the year eighteen hundred and seventy-one [sections 113, 114, 115, 116, 117 and 118 of this digest], and every person violating any of these sections shall be guilty of a misdemeanor punishable by a fine not exceeding three hundred dollars, or by imprisonment not exceeding sixty days.

All complaints of violations of said sections shall be made only by authority of the board of health.

HEALTH.

1. Under Gen. Sts. c. 26, § 52, the selectmen of a town, acting as a board of health, may by a general order forbid the exercise of an offensive trade or employment therein, without first giving notice to those who at the time are engaged in carrying on the same. — *Belcher vs. Farrar*, 8 Allen, 325 (1864).

2. The party erecting or continuing a public nuisance may be prosecuted by indictment; and a part of the judgment may be that it be prostrated and removed. — SHAW, C. J., in *Eames vs. New England Worsted Co.*, 11 Met. 572 (1846).

3. In order to amount to a nuisance, it is not necessary that there should be a corruption of the atmosphere such as to be dangerous to health; it is sufficient that the effluvia are offensive to the senses and render habitations uncomfortable. — SHAW, C. J., *Ib.*

4. It is not only the right but the duty of the city government of Boston, so far as they may be able, to remove any nuisance which may endanger the health of the citizens. — *Baker vs. Boston*, 12 Pick. 184 (1831).

5. And they have necessarily the power of deciding in what manner this shall be done, and their decision is conclusive, unless they transcend the powers conferred on them by the city charter — *Ib.*

6. Police regulations to direct the use of private property so as to prevent its being pernicious to the citizens at large, are not void, although they may in some measure interfere with private rights without providing for compensation. — *Ib.*

7. The property of a private individual may be appropriated to public use in connection with measures of municipal regulation; but in such case, compensation must be provided for, or the appropriation will be unconstitutional and void. — *Ib.*

8. Carrying on an offensive trade for twenty years in a

place remote from buildings and public roads does not entitle the owner to continue it in the same place after houses have been built and roads laid out in the neighborhood, to the occupants of and travellers upon which it is a nuisance. — *Commonwealth vs. Upton*, 6 Gray, 473 (1856).

9. Since the statute of 1849, c. 211, § 7 (Gen. Sts. c. 26, § 50), which provides that "all fines and forfeitures incurred under the general laws, or the special laws applicable to any town or city, or the ordinances, by-laws and regulations of any town or city, relating to health, shall enure to the use of such town or city, and may be recovered by complaint, in the name of the treasurer," such fines and forfeitures are recoverable only by complaint in the name of the treasurer of the city or town, and in no other manner. — *Commonwealth vs. Foley*, 5 Cush. 408 (1850). (Under Gen. Sts. c. 19, § 15, either the city treasurer or the chief of police may prosecute for such fines and forfeitures.)

10. The ordinances and by-laws of the city of Boston concerning burying-grounds and the burying of the dead, are regulations relating to health within St. 1849, c. 211, § 7 (Gen. Sts. c. 26, § 50). — *Ib.*

11. The St. of 1832, c. 150, entitled "an act in addition to an act authorizing the town of Charlestown to establish a board of health," authorized the selectmen of Charlestown to appoint and locate burying places in that town, to establish the police of the burying places, to make regulations for funerals, and to appoint proper persons to carry the same into effect. The fourth section of a by-law of Charlestown provided that no person should without leave first obtained bring into the town any dead body, or convey through any of the streets, or bury any dead body so brought into the town; or bury any such body on any part of his own premises or elsewhere. Held, that the first part of this section being unauthorized by the statute and void (which was conceded),

the whole of the section was consequently void. — *Austin vs. Murray*, 16 Pick. 121 (1834).

12. It was held, also, that the latter part of the section was not a regulation but a prohibition, and therefore void, and if it were not a prohibition, yet that except when applied to a populous part of the town it was unreasonable and on that account void. — *Id.*

13. The third section of the by-law ordains that no person shall exercise the office of funeral undertaker within the limits of the town, unless he shall have been first appointed and licensed by the selectmen. It was held, that this section did not apply to a person who, without a license buried dead bodies brought into the town contrary to the fourth section; or if it was intended more effectually to enforce the prohibition in the fourth section, and was to be taken in connection with that section, then it was void. — *Id.*

14. A tax-payer in a town cannot maintain an action against the town for his proportion of the expenses of the burial of persons not paupers, paid by the town out of the money raised by town taxes. — *Withington vs. Harvard*, 8 Cush. 66 (1851).

15. A by-law of the city of Boston, prohibiting any person not duly licensed therefor by the mayor and aldermen, from removing house dirt and offal from the city, was held not to be in restraint of trade, but to be a valid by-law, and binding upon a stranger coming into the city. — *Vandine, petitioner*, 6 Pick. 187 (1828).

16. It was criminal to dig up and remove a dead body, at common law. — *Commonwealth vs. Cooley*, 10 Pick. 36 (1830).

17. The removal of a dead body is not an offence within the meaning of St. of 1830, c. 57 (Gen. Sts. c. 165, § 37), unless done with the intent to use or dispose of the body for the purpose of dissection, and in an indictment under that statute such an intent must be averred. — *Commonwealth vs. Slack*, 19 Pick. 304 (1837).

18. Where a town incurs expenses, under the provisions of St. 1837, c. 244, § 1 (Gen. Sts. c. 26, § 16), on account of paupers having a legal settlement in another town, the former is bound to give reasonable notice to the latter, before commencing an action for such expenses, and the selectmen of the respective towns are proper officers to give and receive such notice. — *Springfield vs. Worcester*, 2 Cush. 52 (1848).

19. On the fifth of May, 1846, a poor person, having a legal settlement in W., fell ill of the small-pox in S., and was there relieved, in pursuance of the provision of St. 1837, c. 244, § 1 (Gen. Sts. c. 26, § 16), and the selectmen of S., on the 25th of the same month, gave notice of the pauper's sickness and of the expenses incurred on his account, to the selectmen of W.; it was held that such notice was reasonable and sufficient. — *Ib.*

20. If the selectmen of a town, acting as a board of health, have brought a bill in equity to restrain the exercise of an offensive trade or employment which they have prohibited, under Gen. Sts. c. 26, § 52, this court have power to allow an amendment thereof, by substituting the inhabitants of the town as plaintiffs, after the term of office of the selectmen has ceased. — *Winthrop vs. Farrar*, 11 Allen (1865).

21. An order by the selectmen of a town, acting as a board of health, forbidding the exercise of an offensive trade or employment therein, need not be served by an officer. — *Ib.*

22. If the selectmen of a town, acting as a board of health, after passing a general order, under Gen. Sts. c. 26, § 52, forbidding the exercise of an offensive trade or employment therein, without first giving notice to those who at the time were engaged in carrying on the same, and after giving notice of the passage of such order to a person so employed, subsequently, and before the expiration of the three days allowed by § 56 for an appeal therefrom, gave notice to such person of the presentation

of a petition to them, praying for the passage of a similar order upon him, appointing a time and place for a hearing, with the intention of preventing him from availing himself of his right of appeal from the order which they have already passed, and he is thereby so prevented, and thereby loses his right of appeal, this court will not enforce the order of the board of health by a process in equity. And if the selectmen have done this without an intention to mislead him, or to deprive him of his right of appeal, but he and his counsel have been actually mistaken in regard to his right of appeal from the order, and he has lost his appeal by reason of this mistake, and the consequences to him will be serious, this court in its discretion may and will refuse to enforce the order. — *Id.*

23. Chapter 285 of the acts of 1866, and 152 of 1869, do not justify the refining of petroleum at any place where a necessary consequence of the manufacture is the emission of vapors which constitute a nuisance at common law by their unwholesome and offensive odor. — *Commonwealth vs. Kidder*, 107 Mass. 188.

An action to recover money expended from the treasury of a city or town by its board of health in removing a nuisance, is to be brought in the name of the city or town. — *Wright vs. Farrow*, 11 Allen, 290 (1864); *Eastern R. R. Co.*, 98 Mass. 431 (1868).

An order of a board of health to the removal of a particular nuisance is valid without previous notice to the parties interested or opportunity for them to be heard. *Hatch vs. Town*, 8 Allen 276 (1864). And see also 98 Mass. 431.

One found guilty under Gen. Sts. c. 26, § 9, for removing a nuisance, provides a mode of removal and if it thus provides a mode, the owner or occupant of the property on which the nuisance is found is not restricted therefrom. — *Allen vs. Eastern R. R. Co.*, 98 Mass. 431.

If such order as has been provided provides a mode and the owner or occupant of the property on which the nuisance is found neglects to remove it, the board is proceeding to remove it under § 10 of that chapter it is not restricted to that mode, but may adopt any other suitable. — *Ib.*

If an order of a board of health under Gen. Statutes, c. 26, § 9, for a railroad company for the removal of a nuisance, provides that the company, by filling up parts of a certain pond, without supplying suitable drains or other means of drainage, have created and are maintaining a nuisance on said pond, it sufficiently informs the company of the nature and locality of the nuisance so to be removed. — *Ib.*

One who having been his land a nuisance, and being notified in what it is by the board of health, fails to do, will be liable for the expense incurred by the city in its removal, even if the structure causing the nuisance is not in itself a nuisance. — *Ib.*

In an action by a city, on Gen. Sts. c. 24, § 10, against the party alleged to have caused a nuisance, to recover money expended by the board of health in removing it,

the findings of the board are not conclusive upon him, and all the facts on which remedy is sought must be controverted, and must be established by proof. — *Id.*

In the removal of a nuisance the board of health may, under Gen. Stat. c. 26, § 8, dig a drain through land adjoining the nuisance. — *Id.*

The common law remedy against a nuisance has not been entirely abolished by the action of this summary jurisdiction. — *Commonwealth vs. Horsford & Howard Works*, 16 Gray, 231 (1860).

A bill of costs for a judgment at common law need not show what should be abated. — *Id.*

Where a board of health designates places in which a nuisance may be carried on, it cannot act beyond that limit, and that place is liable to no process greater, other than those prescribed by statute. — *Id.*

But where the board of health takes no action the common law remedies, either public or private, still lie. — *Id.*

An indictment for a nuisance at common law which alleges that the defendant at a certain time had placed and maintained certain buildings, and had therein large quantities of certain materials and offensive substances, in the manufacture of certain chemical products, by reason whereof divers noxious and offensive smokes, gases, smells, and vapors were emitted, and thereby the air was filled and impregnated therewith, and rendered noxious and unwholesome to the great damage and annoyance of the people, etc., is sufficient. — *Id.*

chs. 262 of 1866 and ch. 152 of 1869, do not justify the refusing of petitions at any place, where a necessary consequence of the manufacture is the emission of vapors which constitute a nuisance at common law by their unwholesome and offensive odor. — *Commonwealth vs. Kidder*, 107 Mass. 188.

AN ORDINANCE RELATING TO THE PUBLIC HEALTH.*

Duties of the Mayor.

SECTION 1. It shall be the duty of the mayor to be vigilant and active in protecting the public health; to see that the laws and ordinances in relation to the same are enforced; to communicate his views to the board of health or the city council from time to time, as he may deem expedient; and he shall have power to call upon the police and the various city officers to aid him in the performance of these duties.

COMMITTEE ON HEALTH.

Joint Committee on Health,

SECT. 2. There shall be appointed annually, in the month of January, a joint committee of the city council on the health department, consisting of two aldermen and three councilmen. It shall be the duty of said committee to examine, as often as once in each month, the records and accounts of the board of health, and also to examine all applications for appropriations for the health department, and report thereon to the city council.

Committee to have control of expenditures for certain purposes.

Provisos.

SECT. 3. The said committee shall have control of all the expenditures on account of the city teams, the city stables, the cleaning of cesspools and streets, the collection of ashes and offal, and the employment of the laborers required therefor; *provided*, however, that the expenditures for the purposes herein enumerated shall not exceed the amount previously appropriated therefor by the city council, and *provided further*, that the

* Passed Dec. 2d, 1872; amended January 10, 1873.

work of cleaning the cesspools and streets, and collecting the ashes and offal, and all contracts therefor, shall be performed in a manner entirely satisfactory to the board of health; and all contracts for such work shall contain the condition that they shall be performed to the satisfaction of the board of health.

Work to be satisfactory to board of health.

SECT. 4. The said committee shall annually, on or before the 15th of February, make an estimate of the appropriations required during the ensuing financial year for and on account of the city teams, city stables, cleaning the cesspools and streets, collecting offal and ashes, and paying the laborers employed in connection therewith; and shall add the amount so estimated to the amount estimated by the board of health, as provided in section eight of this ordinance, and transmit the same to the auditor.

Estimates for financial year

BOARD OF HEALTH.

SECT. 5. In the month of November, in the year 1872, or as soon thereafter as may be, the mayor shall appoint, subject to the approval and confirmation of the city council, three persons, not members of the city council, who shall constitute the board of health in the city of Boston. The persons so appointed shall enter upon the duties of their office forthwith. The terms of office shall be so arranged at the time of their appointment that the term of one shall expire on the first Monday in May in each year after the year 1873, and the vacancy so created, as well as all vacancies occurring otherwise, shall be filled by the mayor, with the approval of the city council. The members of said board shall at all times be subject to removal by the mayor for cause. For their services they shall receive such compensation as the city council may from time to time determine.

Appointment of board of health.

Terms of office.

Compensation.

SECT. 6. The said board shall organize annually by the choice of one of their members as chairman. They

Organization of Board.

Clerk.

shall also choose a clerk, who shall not be a member of the board; and they may make such rules and regulations for their own government, and for the government of all subordinate officers in their department, as they may deem expedient.

Powers and duties of board.

SECT. 7. The board of health, as hereby constituted, shall have and exercise all the powers vested in, and shall perform all the duties prescribed to, the city council or the board of aldermen as a board of health, under the statutes and ordinances now in force; and shall have power to appoint such subordinate officers, agents and assistants, in addition to those hereinafter designated, as they may deem necessary; and may fix their compensation, and the compensation of the clerk before mentioned; *provided*, that the whole amount of such compensation shall not exceed the sum appropriated therefor by the city council.

Estimates for financial year.

SECT. 8. The said board shall annually, on or before the 15th day of February, send to the standing committee of the city council on the health department, an estimate, in detail of the appropriations required by the health department (except for the purposes named in section three of this ordinance), during the next financial year. All bills for expenditures from the appropriations for the health department, except those specially mentioned in this ordinance as being under the control of the standing committee of the city council, shall be drawn for by the chairman of said board, examined by the auditor, and approved by the committee on accounts, before they are paid by the treasurer.

Annual report of board.

SECT. 9. The said board of health shall annually, in the month of May or June, present to the city council a report made up to and including the thirtieth day of the preceding April, containing a full and comprehensive statement of the acts of the board during the year, and a review of the sanitary condition of the city; and they

shall at the same time transmit to the city council reports from the superintendent of health, city physician and the port physician covering the same period.

SUPERINTENDENT OF HEALTH.

SECT. 10. The said board shall annually, in the month of April, and whenever a vacancy occurs from any cause, appoint, subject to the approval of the mayor, an officer who shall be known as the superintendent of the health department. Said superintendent shall hold his office for one year from the first Monday in May in the year in which he is appointed, and until a successor is appointed or he is removed, and he may be removed at the pleasure of said board. He shall perform such duties in addition to those hereinafter designated, keep such records, and make such reports as the said board may from time to time direct. For his services he shall receive such compensation as the city council may from time to time determine.

Appointment
of supt. of
health.

SECT. 11. The said superintendent of health shall, under the direction of the standing committee of the city council on the health department, have the care and superintendence of the city teams and city stables; and he shall make all necessary arrangements for cleaning the streets, disposing of manure, and removing house-dirt and house-offal, to the entire satisfaction of the board of health. He shall furnish, upon the requisition of the superintendent of streets, carts and horses for use in the paving department; and the expense of complying with such requisitions shall be charged to the appropriation for the paving department. Said superintendent shall perform such other duties, and have such other powers, as agent of the board of health, in executing the laws, ordinances, orders or regulations relating to the subject of health, as the said board may from time to time prescribe.

Duties of
supt.

Supt. shall
give bond.

SECT. 12. The said superintendent of the health department shall give bond with one or more sureties, to the approval of the city council, with condition that he shall faithfully perform all the duties of his office, and account for all moneys entrusted to him; and that he will not, directly, or indirectly, for himself or others, or by others in trust for him, or on his account, have any interest or concern in any purchase, lease, contract, or agreement made in pursuance of this ordinance.

Bills for work
done or ma-
terial sold.

SECT. 13. Whenever the joint standing committee on the health department, or the board of health, or the superintendent sells any articles or materials belonging to the city, or does, or causes to be done, work for any individual, the clerk of the board of health shall enter in books to be kept for that purpose all such sales and work done, with the price thereof, and shall forthwith make out bills for the same and deliver them to the city treasurer for collection, and the said treasurer shall forthwith demand payment of the said bills; and in case any bills or dues under this ordinance remain unpaid at the expiration of thirty days after demand for payment as aforesaid, the said treasurer shall deliver the same to the city solicitor for legal proceedings; but if the mayor is satisfied that the interests of the city require it, he may cause legal proceedings to be had at any time.

Pay-rolls of
laborers.

SECT. 14. The pay-rolls of the laborers employed under the direction of the joint standing committee on the health department shall be made up and certified by the superintendent of health, and upon being duly allowed and audited shall be paid by the city treasurer, at such times and places as he may appoint, and he may employ a clerk for that purpose.

CITY PHYSICIAN.

Appointment
of city phy-
sician.

SECT. 15. The said board of health shall annually, in the month of April, appoint, subject to the approval of the mayor, a suitable person for city physician, who

shall hold his office for one year from the first Monday in May, in the year in which he is appointed, unless sooner removed; and he may be removed at the pleasure of the board, and a vacancy may be filled at any time for the unexpired term. He shall perform such duties, in addition to those hereinafter designated, keep such records, and make such reports, as the board of health may from time to time direct. For his services he shall receive such compensation as the city council may from time to time determine. Said board may also appoint such assistants to the city physician as they may from time to time deem necessary.

Sect. 16. The city physician, when notified thereof, shall examine into all nuisances, sources of filth, and causes of sickness which may be on board of any vessel at any wharf within the harbor of Boston, or which may have been landed from any vessel on any wharf, or other place; and, under the direction of the board of health, shall cause the same to be removed or destroyed.

Duties of city physician.

Sect. 17. The city physician shall vaccinate, and re-vaccinate, without charge, any inhabitant of Boston who may apply for that purpose; he shall also give certificates of vaccination to such children as have been vaccinated, and require such certificates for admission to the public schools: *provided*, that no person shall be entitled to the benefits of this section who shall wilfully neglect or refuse to return to the office of the city physician, when requested by him, for the purpose of enabling him to ascertain the effect of the vaccination, or to renew the necessary supply of virus for the use of said office.

Vaccination.

Sect. 18. He shall always have on hand, as far as is practicable, a sufficient quantity of vaccine virus, and he shall supply the physicians of the city institutions, and the dispensary, with the same, without expense to them.

Supply of vaccine virus.

Physician to
examine
causes of dis-
eases, etc.

SECT. 19. He shall examine all causes of disease within the city, and inquire into all sources of danger to the public health, whenever called upon by the mayor or the board of health for the time being, and shall give his professional services and advice thereat at all times when required.

• Shall attend
jail, city
prison, etc.

SECT. 20. The city physician shall attend upon all cases of disease, and perform all the professional services that may be required in the jail, city prison under the court-house, in the city temporary house, and in the several police sections in the city, except those at East and South Boston. He shall, when requested by the mayor, board of aldermen, or chief of police, examine all candidates for appointments on the police force; examine the condition all officers absent from duty from disability; also all cases of accidental injury whereby the city may become liable; and make reports to the city register, when requested by him, the causes of death of all persons dying with no physician in attendance.

• Notice to be
given of ves-
sels contain-
ing hides, etc.

SECT. 21. Whenever any vessel arrives in the harbor of Boston, between the first day of April and the fifteenth day of November in any year, having on board any hides, hide-cuttings, skins, rats, or frogs, the harbor police shall give immediate notice thereof to the city physician.

Masters and
consignees to
give notice.

SECT. 22. Every master and consignee of any vessel arriving within the time fixed in the preceding section, and containing the articles therein named, or any of them, shall give immediate notice of the arrival of such vessel to the harbor master or the city physician.

QUARANTINE.

Quarantine.

SECT. 23. The quarantine grounds of the city of Boston shall consist of Deer Island and Gallip's Island, in Boston Harbor; and said islands are hereby

made and declared to be the places of quarantine for the port of Boston.

PORT PHYSICIANS.

SECT. 24. The said board of health shall annually, in the month of April, appoint, subject to the approval of the mayor, a suitable person for port physician, who shall hold his office for one year from the first Monday in May, in the year in which he is appointed, unless sooner removed; and he may be removed at the pleasure of the board, and a vacancy may be filled at any time for the unexpired term. He shall perform such duties in addition to those hereinafter designated, keep such records, and make such reports, as the board of health may from time to time direct. For his services he shall receive such compensation as the city council may from time to time determine.

Appointment
of port phy-
sician

SECT. 25. The port physician shall reside at Deer Island. He shall be superintendent and physician of the quarantine establishment at Deer Island, and either physician or assistant physician, as the board of directors for public institutions may elect, of all the city establishments which are, or may be, located upon said island. He shall also perform all such services as may be required of him by the mayor, or the board of health, in relation to quarantine.

Duties of port
physician.

SECT. 26. The port physician may, at any time, with the concurrence of the board of health, appoint an assistant port physician, to hold his office so long as the board of health shall determine; and such port physician shall receive such compensation for his services as may be appropriated therefor by the city council.

Appointment
of asst. port
physician.

INTERMENT OF THE DEAD.

SECT. 27. The interment of the dead shall be under the superintendence of the board of health, who shall

Interment of
dead.

carry into execution all laws, ordinances, regulations and orders, relating to the interment of the dead.

Custody of
burying-
grounds.

SECT. 28. The board of health shall have the care and custody of all the burying-grounds in the city, and shall keep the same in good repair and secured from trespassers, and prevent any and all nuisances therein.

Removal of
dead bodies.
Graves, etc.

SECT. 29. The board of health may give licenses for burials, and for the removal of dead bodies from the city, and point out the place, depth, width, and range of all graves in the several burying-grounds, and shall forbid graves to be dug within those limits in such grounds in which, in its judgment, it would be dangerous to the public health to allow graves.

License to be
obtained for
burial.

SECT. 30. No person shall bury or inter, or cause to be buried or interred, any dead body, in violation of any direction or order of the said board, given in accordance with the preceding section, or without having first obtained a license so to do.

Depth of
graves.

SECT. 31. No person shall inter, or cause to be interred, any dead body in a grave less than three feet deep from the surface of the ground surrounding the grave to the top of the coffin.

Appointment
of funeral
undertakers.

SECT. 32. On the first Monday of February, annually, or within sixty days thereafter, the mayor, by and with the advice and consent of the aldermen, shall appoint for a period of one year, from the first Monday of April in the year in which they may be appointed, such a number of funeral undertakers as he may deem expedient, and they shall be responsible for the decent, orderly, and faithful management of the funerals undertaken by them, and for a strict compliance with the ordinances of the city in this behalf. Each undertaker may employ porters, of a discreet and sober character, to assist him, and he shall be accountable for their conduct; said undertakers and porters may be removed at the pleasure of the mayor. No person not appointed as aforesaid shall open any tomb or grave for the purpose of

depositing or removing a dead body, without the permission of the board of health.

SECT. 23. No person shall bury or inter, or cause to be buried or interred, any dead body at any other time of the day than between sunrise and sunset, except when otherwise permitted by the board of health. No bell shall be tolled in the city of Boston, at any funeral, without a special permit therefor from the mayor, or board of health, who are hereby authorized to suspend the usual ringing of any bell, when the illness of any person in the neighborhood thereof may require such suspension. The corpse of every person of ten years of age and upward shall be conveyed to the grave or tomb in a funeral car, drawn by not more than two horses, unless permission for a different mode of conveyance is given by the board of health.

Time of
burials.

Tolling of
bells.

Funeral cars.

SECT. 24. No grave shall be opened or dug in any of the burying-grounds in the city, unless by permission of the board of health.

Opening of
graves.

SECT. 25. No conductor on any railroad, no master of any steamboat or other vessel, no hack-driver, or other person, shall remove, or cause to be removed, from the city, any dead body, without the written license of the board of health.

Dead bodies
not to be re-
moved with-
out license.

SECT. 26. No person shall remove any dead body, or the remains of any such body, from any of the graves or tombs in this city, or shall disturb any dead body in any tomb or grave, without the license of the board of health.

Ibid.

SECT. 27. No grave or tomb shall be opened from the first day of June to the first day of October, except for the purpose of interring the dead, without the special permission of the board of health.

Graves not to
be opened in
warm weather
except, etc.

SECT. 28. For services rendered in accordance with the provisions of this ordinance, undertakers shall be entitled to receive the following fees, and no more, to wit: For digging a grave eight feet deep and covering

Undertakers'
fees.

the same, three dollars and fifty cents; for digging a grave six feet six inches deep, two dollars; for digging a grave five feet deep, one dollar and seventy-five cents; for digging a grave four feet deep, one dollar and fifty cents; for digging a grave three feet six inches deep, one dollar and twenty-five cents; and when the ground is frozen, the charge for digging graves may be augmented at the discretion of the city register. For opening and closing a tomb one dollar and fifty cents; for placing a corpse in a coffin, when requested, and removing the same downstairs, one dollar and fifty cents; for carrying a corpse to the tomb or grave, including the assistance of funeral porters and one horse, five dollars; for carrying a corpse to the tomb or grave, including the assistance of funeral porters and two horses, seven dollars and fifty cents; for carrying a corpse out of the city, there shall be allowed fifty cents in addition for each mile beyond the limits of the city. When a corpse is carried into a church for a funeral service, the undertaker may make an additional charge of two dollars. For lighting a cemetery, one dollar. For the burial of children under ten years of age, the fees shall be as follows: for services at the house, one dollar; for carrying the corpse to the carriage, and from the carriage to the place of deposit, and returning the same, one dollar; for the use of a pall, twenty-five cents.

The fees for disinterring and removing bodies from graves or tombs shall be in accordance with the amount and nature of the services rendered.

Sect. 39. The board of health are authorized to make and adapt any regulations in relation to the interment of the dead which they may deem expedient, not inconsistent with the foregoing provisions, and subject to the approval of the mayor.

Board may
make addi-
tional regula-
tions.

VAULTS AND DRAINS.

SECT. 40. The owner, agent, occupant or other person having the care of any tenement used as a dwelling-house, or of any other building with which there is a privy connected and used, shall furnish the same with a sufficient drain under ground to carry off the waste water, and also with a suitable privy, the vault of which shall be sunk under ground and built in the manner hereinafter proscribed, and of a capacity proportionate to the number of inhabitants of such tenement, or of those having occasion to use such privy. Any such owner, agent, occupant, or other person who shall neglect to comply with the provisions of this section shall be liable to a penalty of not less than five dollars nor more than twenty dollars, for each and every week during which such offence shall continue.

Vaults and drains.

SECT. 41. All vaults and privies shall be made of brick and cement, and contain at least eighty cubic feet, and the inside of the same shall be at least two feet distant from the line of every adjoining lot, unless the owner of said adjoining lot may otherwise agree and consent; and at the same distance from every street, lane, alley, court, square, or public place, or public or private passage-way; and they shall be so constructed as to be conveniently approached, opened and cleaned. Every vault shall be made tight, so that the contents thereof cannot escape therefrom, except as is provided in section forty-four. All preparations for cleaning a vault or privy shall be made by the person entering the same; and, in case of neglect to make such preparations, it shall be made by the city, and the expense thereof be charged to such person.

Vaults and privies how constructed.

SECT. 42. The superintendent of sewers, under the direction of the board of health, is authorized to permit, under such restrictions, and on the payment of such sum, not exceeding thirty dollars, as they may deem expedient, the construction of sufficient passage-

Permits for conveying contents of sewers into sewers.

ways or conduits under ground for the purpose of conveying the contents of any vault into any common sewer or drain.

Owners of
buildings to
be caused to
construct
privies, vaults and
drains.

SECT. 43. If the board of health shall at any time be satisfied that any tenement, used as a dwelling-house, or any such other building as is mentioned in the fortieth section, is not provided with a suitable privy, vault, and drain, or either of them, as aforesaid, they shall give notice in writing to the owner, agent, occupant, or other person having the care thereof; or in case none of the owner, agent, or person having the care thereof is an inhabitant of the city, public notice in two newspapers printed in Boston, requiring such owner, agent, occupant, or other person, within such time as they may appoint, to cause a proper and sufficient privy, vault and drain, or either of them, to be constructed for such tenement or other building; and in case of neglect or refusal to obey such notice the board of health shall cause such privy, vault, and drain to be made for such tenement or other building, at the expense of such owner, agent, occupant, or other person; and in case any such drain, vault, or privy is constructed as aforesaid, for the use of more than one house, then the owner, agent, occupant, or other person having the charge of each of such houses, shall be liable to pay a proportional part of such expense.

Vaults, &c., to
be cleansed.

SECT. 44. Whenever any vault, privy, or drain becomes offensive or obstructed, the same shall be cleansed and made free, and the owner, agent, occupant, or other person having charge of the land in which any vault, privy, or drain is situated, the state or condition of which is in violation of the provisions of this ordinance, shall remove, cleanse, alter, amend, or repair the same within such reasonable time, after notice in writing to that effect given by the board of health or the superintendent of health, as shall be expressed in such notice. In case of neglect or refusal

so to do, the superintendent of health may, with the advice and consent of the board of health, cause the same to be removed, altered, amended, or repaired, as he may deem expedient, at the expense of the owner, agent, occupant, or other person as aforesaid, and such owner, occupant, or other person shall also be liable to such penalties as are prescribed by law or ordinance.

SECT. 45. No cesspool, vault or privy shall be emptied without a permit from the superintendent of health; nor in any other mode, or at any other time, than he may direct and appoint, subject to such regulations as the board of health from time to time shall make on the subject, and always at the expense of the owner, agent, occupant, or other person having charge of the tenement in which such vault is situated.

Permits for emptying cesspools, vaults and drains.

SECT. 46. Books, in which shall be entered all applications for opening and cleansing vaults, shall be kept in convenient places under the charge of the superintendent of health; such applications shall specify the number of loads, if less than the whole contents of the vault, to be removed; and they shall receive attention in the several wards in the order in which they are made, so far as practicable. The joint standing committee of the city council on the health department shall from time to time determine the sum to be paid by persons making such applications. And in order to ascertain the proper sum to fix as a minimum price, for the removal of the contents of the vaults, as hereinbefore provided, the committee on health shall advertise for proposals for such service, for a term not exceeding three years; and shall report to the board of health a contract or contracts therefor for their approval.

Applications for cleansing vaults, how made.

Contract for removing night soil.

SECT. 47. No vault shall be opened between the first day of June and the fifteenth day of September, in each year, unless the board of health shall be satisfied of the necessity of the same for the health or comfort of the inhabitants. In such case no more of the contents shall

Time for opening vaults, etc.

be taken away, than said board shall deem to be absolutely necessary for present safety and relief, and such precautions shall be used relative to the prevention of any offensive effluvia, as said board may direct, at the expense of the owner, agent, occupant, or other person having charge of the premises.

Waste water
to be removed.

SECT. 48. All waste water shall be conveyed through sufficient drains, under ground, to a common sewer, or to such reservoir, sunk under ground, as may be approved by the superintendent of sewers. And no person shall suffer any waste or stagnant water to remain in any cellar, or upon any lot, or vacant ground, by him owned or occupied.

Inmates of
tenement
houses may
be removed.

SECT. 49. Whenever, upon due examination, it appears to the board of health, that the number of persons occupying any tenement or building in the city is so great as to be the cause of nuisance and sickness, and the source of filth, or that any tenements or buildings are not furnished with vaults, constructed according to the provisions of this ordinance, and sufficient privies and drains under ground for waste water, they may, thereupon, issue their notice, in writing, to such persons, or any of them, requiring them to remove from and quit such tenement or building within such time as the said board shall deem reasonable. And if the person or persons so notified, or any of them, shall neglect or refuse to remove from and quit such tenement or building within the time mentioned in such notice, the board of health are hereby authorized and empowered, thereupon, forcibly to remove them: and such person or persons shall be liable to a penalty for such neglect or refusal, and for the expense of their removal.

HOUSE OFFAL, ASHES, ETC.

Removal of
house offal.

SECT. 50. All house offal, whether consisting of animal or vegetable substances, shall be placed in suitable vessels, and no ashes or other refuse matter shall be

mingled therewith; and the same shall be kept in some convenient place, to be taken away by the city scavengers, which shall be done as often as twice in each week.

SECT. 51. Ashes kept for removal by the health department shall not be mixed with other substances, but shall be kept separate and apart, in a convenient locality, in suitable iron or other metallic vessels, and in such a manner as to prevent the spread of fire. Ashes, how kept.

SECT. 52. No person shall remove, or carry in, or through, any of the streets, squares, courts, lanes, avenues, places, or alleys within the city of Boston any house dirt or house offal, either animal or vegetable; or any grease or bones, or any refuse substances from any of the dwelling-houses or other places in the city, unless each person so removing or carrying the same and the mode in which the same may be removed or carried, shall have been expressly licensed by the board of health, upon such terms and conditions as they may deem the health and interest of the city require. But all the ashes and cinders made from steam engines, or steam boilers, forges or furnaces, used for mechanical purposes, shall be removed at the expense of the parties occupying the building, or the owners thereof, and at such times, and in such manner as the board of health may direct. House offal, etc., how removed.

SECT. 53. No person, without the license of the board of health, shall throw into, or leave in, or upon, any street, court, square, lane, alley, wharf, public square, public enclosure, vacant lot, or any pond or body of water within the limits of the city, any dead animal, dirt, sawdust, soot, ashes, cinders, shavings, hair, shreds, manure, oyster, clam or lobster shells, waste water, rubbish or filth of any kind, or any refuse animal or vegetable matter whatsoever. Nor shall any person throw into, or leave in, or upon, any dock, flats, or tide water within the jurisdiction of the city, any dead Ashes, etc., from steam engines.

Animal or vegetable matter not to be left in streets, etc.

animal or other foul or offensive matter, except as provided in the fifty-sixth section of this ordinance.

Penalty, etc.

SECT. 54. If any of the substances mentioned in the preceding section shall be thrown or carried from any house, warehouse, shop, cellar, yard, or other place, or left in any of the places specified in the preceding section, the owner and occupant of such house, warehouse, shop, cellar, yard, or other place as aforesaid, and the person who actually threw, carried, or left the same, or who caused the same to be thrown, carried, or left, shall severally be held liable for such violation of this ordinance; and all such substances shall be removed from the place where they have been so thrown or left, as aforesaid, by such owner or occupant, or other person, within two hours after personal notice, in writing, to that effect, given by the superintendent of health; or such removal shall be made under the direction of said superintendent, and the expense thereof borne by such owner or occupant.

Dirt, etc., may
be removed
by board of
health.

SECT. 55. All dirt, sawdust, soot, ashes, cinders, shavings, hair, shreds, manure, oyster, clam or lobster shells, waste water, or any animal or vegetable substance, rubbish, or filth, of any kind, in any house, warehouse, or other building, cellar, yard, unaccepted street, alley-way, or other place which the board of health may deem injurious to the health of the city, shall be removed by the owner or occupant of such house, warehouse, other building, cellar, yard, unaccepted street, alley-way, or other place where the same may be found, within twenty-four hours, or such other time as the board of health may deem reasonable, after notice in writing to that effect, served personally upon the owner or occupant, or their authorized agent, by any person competent to serve a notice in a civil suit, or left at the owner's, occupant's, or agent's last and usual place of abode, if the same be known and be within the State; or such removal shall be made under the direc-

tion of the board of health, and the expense thereof borne by such owner or occupant, who shall also be liable to a penalty.

SALE OF FISH, ETC.

SECT. 56. No person shall bring into the city for sale, or shall sell, or offer for sale, any halibut, cod, haddock, or mackerel, until the same have been cleansed of their entrails and refuse parts; and such entrails and refuse parts shall be thrown overboard, below low-water mark; and shall never be kept beyond the flowing of the tide next after such fish are so cleansed: and until so thrown overboard they shall be kept, in a safe manner, on board the vessels or boats in which the fish were brought. And no person shall sell or deliver, from any stall, fish-box, cart, or other place, any fish of any kind except flounders, smelts, and other small fish, salmon and shad, until the same have been cleansed of their entrails and refuse parts; and such entrails and refuse parts shall be kept in some tight vessel, and shall be thrown into the sea below low-water mark within twenty-four hours after the fish are so cleansed. And no person shall sell, or offer for sale, in the city, fish of any kind, unless the same be kept in covered stalls, fish-boxes, or other houses, or covered carts, which shall always be kept clean and in good order, and well secured from the rays of the sun.

Sale of fish regulated.

SECT. 57. No person shall sell or offer for sale, in any street, lane, or alley, any fish, lobsters, oysters, or shell-fish of any kind, except by permission of the board of health, and on such conditions as they shall order.

Not to be sold except by permission.

SALE OF VEGETABLES.

SECT. 58. No person shall bring into the city, or have in his possession for sale, or sell, or offer for sale, any vegetables whatever (excepting green peas and beans in the pods, and green corn in the inner husks), which have

Vegetables to be divested of parts not used for food.

not previously been divested of such parts or appendages as are not commonly used for food; and no person shall have such parts or appendages in his possession in any public or private market, or in any store, shop, or other place, or in any cart or vehicle in said city used or occupied for the sale of vegetables or other articles of food.

MISCELLANEOUS.

Fowls, swine and goats not to be kept without license.

SECT. 59. No fowls, swine or goats shall be kept within the limits of the city without the license of the board of health, and only in such place and manner as they may direct.

Stables, how to be kept.

SECT. 60. The owners and occupants of livery and other stables within the city shall not wash or clean their carriages or horses, or cause them to be washed or cleaned, in the streets or public ways, or otherwise encumber the same; they shall keep their stables and stable-yards clean, and shall not permit more than three cords of manure to accumulate and remain in or near the same at any one time between the first day of May and the first day of November; and no manure shall be allowed to accumulate or remain uncovered outside of the stable building. The said owners and occupants shall not, between the first day of May and the first day of November, remove any manure, or cause or suffer the same to be removed, except between the hour of twelve at night and two hours after sunrise.

Removal of manure.

Ibid.

SECT. 61. No person shall remove any manure, or cause or suffer the same to be removed, between the first day of May and the first day of November, except between twelve o'clock at night and two hours after sunrise.

Damaged grain, etc., not to be landed without a permit.

SECT. 62. No person shall bring into the city, by land or water, or land on any wharf or other place any decayed, or damaged grain, rice, coffee, fruit, potatoes, or other vegetable product, or any tainted or damaged meat

or fish, without a permit therefor from, and in such a manner only as directed by, the board of health.

SECT. 63. Every person offending against any of the provisions of this ordinance, for which no penalty is prescribed by the laws of the Commonwealth, shall forfeit and pay a sum not less than five dollars, nor more than fifty dollars for each offence.

Penalty for offences against this ordinance.

SECT. 64. The board of health are authorized to make and adopt other regulations, not inconsistent with the foregoing provisions, which they may deem necessary for the preservation of the public health.

Board of health authorized to make other regulations.

SECT. 65. The said board of health shall also have charge of any buildings which are or may be established by the city council within the city limits or on the islands in Boston harbor, for the admission of patients having the small-pox, or any other infectious disease; and they shall make such rules and regulations for the management and government of the patients and employes as they may deem proper and necessary, subject however to the approval of the city council. And the said board of health shall carefully guard against the introduction of any cases of infectious disease into any other buildings under their charge than those appropriated for that purpose by the city council.

Board of health to have charge of small-pox hospitals.

SECT. 66. The ordinance relating to the public health, passed the thirty-first day of December, A. D. 1869, and all ordinances and parts of ordinances inconsistent herewith, are hereby repealed, said repeal to take effect upon the organization of the board of health as herein designated; *provided*, however, that the superintendent of health, the city physician and the port physician, elected by the city council to hold office for one year from the first Monday in April, in the year 1872, shall continue to hold said offices, unless removed by said board for cause, until the first Monday in May in the year 1873.

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